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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563–AA84

General Crop Insurance Regulations, Tobacco (Guaranteed Plan) Endorsement; and Common Crop Insurance Regulations, Guaranteed Tobacco Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of guaranteed tobacco. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current tobacco (guaranteed plan) endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current tobacco (guaranteed plan) endorsement to the 1998 and prior crop years.

EFFECTIVE DATE: July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131 telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0053 through October 31, 2000.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The effect of this regulation on small entities will be no greater than on large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The amount of work required of insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. The rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

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

Background

On Monday, June 16, 1997, FCIC published a notice of proposed rulemaking in the **Federal Register** at 62 FR 32544 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.136, Guaranteed Tobacco Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring guaranteed tobacco found at 7 CFR 401.129 (Tobacco (Guaranteed Plan) Endorsement). FCIC also amends 7 CFR

part 401 to limit its effect to the 1998 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 88 comments were received from reinsured companies and an insurance service organization. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization recommended that FCIC either revise or delete the definition of ''approved yield.'' The commenter mentioned that since guaranteed tobacco currently is not an actual production history (APH) crop, the definition will be questioned by insureds who do not receive a copy of the Code of Federal Regulations with their crop insurance policies.

Response: ''Approved yield'' is referenced in section 3 of the Crop Provisions, so it must be defined. Section 3 clearly indicates that an approved yield is not necessary unless required by the Special Provisions. As written, if the FSA guaranteed tobacco support price program is discontinued and guaranteed tobacco becomes an APH crop in the future, the Special Provisions could be amended easily to require an approved yield. Therefore, no changes have been made.

Comment: A reinsured company and an insurance service organization expressed concern with the definition of ''good farming practices,'' which makes reference to ''cultural practices generally in use in the county * * * recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.'' The commenters questioned whether cultural practices exist that are not recognized (or possibly not known) by the Cooperative State Research, Education, and Extension Service. The commenters also indicated that the term ''county'' in the definition of ''good farming practices'' should be changed to ''area.''

Response: FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing guaranteed tobacco. If a producer is following practices currently not recognized as acceptable by the CSREES, there is no reason why such recognition cannot be sought by interested parties. The term ''area'' is less definitive than the term ''county'' and would cause insurance providers to make determinations more subjective in nature. Therefore, no change has been made except that the definition of ''good farming practices'' has been moved to the Basic Provisions.

Comment: A reinsured company and an insurance service organization recommended revising the definition of ''harvest'' to include the requirement that at least 20 percent of the production guarantee must be cut on each acre to qualify as harvested. Commenters also recommended that a minimum appraisal of 35 percent of the production guarantee be established to encourage producers to harvest damaged tobacco. In some cases, it will be difficult to verify unharvested production due to deterioration of the leaves before an adjuster works the final claim. The commenters believe that removal of these requirements from the current crop provisions will result in a significant increase in premium rates. Commenters expressed concern that FCIC may have overreacted if the changes were made because of one lawsuit.

Response: FCIC has determined that at least 20 percent of the production guarantee be cut on each acre to qualify as harvested and the 35 percent minimum appraisal for unharvested acreage is too severe. Producers should not be forced to incur the costs associated with harvesting tobacco acres that may not be marketable. In addition, FCIC cannot ignore a court ruling that such provisions are unenforceable. Therefore, no change has been made.

Comment: An insurance service organization asked if the phrase ''if not available'' means the season average price is not available at all or is not available when a claim for an indemnity is processed. The commenter stated that the market price is never available when the tobacco is harvested, only when it is marketed.

Response: The term ''if not available'' means that the market price is not available because no marketings of the applicable insured type of tobacco grown in the area have occurred. The provision has been clarified accordingly.

Comment: An insurance service organization recommended deleting ''marketing window'' from the definition of ''practical to replant.'' The commenter stated that guaranteed tobacco is unlike other crops, such as processor and fresh market crops, where the producer only has a certain amount of time to market the crop.

Response: FCIC agrees that the concept of a ''marketing window'' is most applicable to processor and fresh market crops and recognizes that guaranteed tobacco is unlike these crops. However, the Federal Agriculture Improvement and Reform Act of 1996 mandated that FCIC consider marketing windows in determining whether it is feasible to require planting during a crop year. Therefore no change has been made except that the definition of ''practical to replant'' has been moved to the Basic Provisions.

Comment: A reinsured company and an insurance service organization expressed concern about the terms ''replace'' and ''replacing'' in the definition of ''replanting.'' Commenters stated that the terms, as used, seem awkward and cumbersome.

Response: FCIC believes that the definition of ''replanting'' clearly describes the steps required to replant the crop. However, FCIC has replaced the phrase ''growing a successful tobacco crop'' with ''producing at least the guarantee,'' for clarity.

Comment: An insurance service organization and a reinsured company recommended the unit division guidelines in the proposed rule remain the same in the final rule.

Response: FCIC has not changed the unit division guidelines.

Comment: A reinsured company and an insurance service organization recommended removing any references to ''annual production reports'' for the APH plan. The commenters contend that if the FSA guaranteed tobacco support price program is changed or eliminated, it will be necessary to revise several provisions of the policy.

Response: Section 3(b) of these provisions requires annual production reports only when required by the Special Provisions. The current method for establishing yields will continue for the 1998 crop year. If the guaranteed tobacco support price program is discontinued or modified in future years, these provisions provide an alternative method for establishing the production guarantee. Therefore, no change has been made. However, FCIC has amended the definition of ''support price'' to include the possibility that the tobacco support program may be changed. If there is not a tobacco support program, FCIC will announce the average price per pound for the type of tobacco.

Comment: A reinsured company and an insurance service organization recommended deleting the word ''carryover'' in section 6. Commenters stated that the basic premise of Multiple Peril Crop Insurance coverage is to insure actual planted acreage of the crop. Subtracting the carryover poundage would take coverage away from a planted crop which is legally insurable (i.e., the carryover poundage has value and is exposed to perils). This could have additional unwanted

consequences by making the insurance providers responsible for tracking and placing value on carryover poundage.

Response: Although producers normally reduce the number of acres grown in the current crop year to account for carryover production from the prior year, they may instead elect to reduce inputs (fertilizer, etc.), thereby producing fewer pounds per acre. Further, to reduce the opportunity to falsely report the amount of carryover tobacco at time of loss adjustment, the amount of any carryover production must be reported on the acreage report. Therefore, no change has been made.

Comment: A reinsured company and an insurance service organization asked if the provisions in section 8(c) are intended to allow written agreement requests for a type not rated in the actuarial documents.

Response: Section 8(c) only references a method of planting. Therefore, section 8(c) does not authorize written agreements for types not rated.

Comment: A reinsured company and an insurance service organization question why section 9(a) is not as precise as section 11(a) of the Basic Provisions, which specifies ''total destruction * * * on the unit.''

Response: FCIC has revised section 9(a) to refer to the total destruction of the tobacco on the unit.

Comment: A reinsured company and an insurance service organization asked if the current requirement that notice be given without delay if any tobacco is damaged and will not be sold through an auction warehouse was removed intentionally from section 11.

Response: Section 14(a)(2) of the Basic Provisions states that ''* * * you must * * * give us notice within 72 hours of your initial discovery of damage * * *'' FCIC believes this requirement is substantially the same as requiring a notice ''without delay,'' so the latter requirement of section 11 was removed in the proposed rule.

Comment: Two reinsured companies and an insurance service organization recommended adding the phrase ''containing at least two rows'' after the phrase ''at least 5 feet wide'' in section 11(a). Commenters stated that a representative sample of 5 feet could have only one row in a sample where tobacco is planted in greater than 30 inch rows.

Response: FCIC has amended the provision accordingly.

Comment: Two reinsured companies and an insurance organization recommended that the word ''resulting'' be added in section 12(b)(2) and the reference ''section 12(b)(2)'' be deleted from section 12(b)(3) because reference to the previous item by number is unnecessary.

Response: The recommendations do not add any additional clarification to the provision. Therefore, no change has been made.

Comment: Two reinsured companies and an insurance service organization recommend removing the words ''acceptable production records'' from section 12(c)(1)(D), if these words relate to other APH references in these provisions.

Response: As stated in earlier responses, section 12(c)(1)(D) will only apply if annual production reports are required by the Special Provisions and the provision has been so clarified.

Comment: Two reinsured companies and an insurance service organization expressed concern that section 12(c)(1)(iii) of these provisions allows the insured to defer settlement and wait for a later, generally lower appraisal.

Response: Section 12(c)(1)(iii) allows deferment of a claim only if the insurance provider agrees that representative samples can be left or if the insured elects to continue to care for the entire crop. In either case, if the insured does not provide sufficient care for the remaining crop, the original appraisal will be used. Therefore, no change has been made.

Comment: Two reinsured companies and an insurance service organization are opposed to any reference to the word ''carryover'' in section 12(g).

Response: Section 12(g) eliminates the adjustment of next year's production when the insurance provider agrees that any carryover or current years' tobacco has no market value due to an insured cause of loss. It also eliminates the opportunity to falsely report that the carryover and current years' tobacco have no value and thus increase the indemnity payment. This provision is consistent with the Farm Service Agency's requirement that tobacco having no value be destroyed. Therefore, no change has been made.

Comment: Two reinsured companies and an insurance service organization suggested that the requirement to renew a written agreement each year should be removed in section 13(d). Terms of the agreement should be stated in the agreement to fit the particular situation for the policy, or if no substantive changes occur from one year to the next, allow the written agreement to be continuous.

Response: Written agreements are temporary and intended to address unusual situations. If the condition creating a need for written agreement remains from year to year, it should be incorporated into the policy, the Special Provisions, or the actuarial documents. Therefore, no change has been made except that the provisions for written agreements have been moved to the Basic Provisions.

Comment: Two reinsured companies and an insurance service organization asked: (1) Why the Late Planting Agreement Option is no longer available; and (2) Why the late and prevented planting language provisions are not included in the proposed rule as they have been in other crops.

Response: A new section 13 has been added to provide for late planting coverage. Under section 14, prevented planting coverage will not be provided for guaranteed tobacco as set out in the Basic Provisions because the high cash value per acre and the hand labor required to transplant tobacco on relatively small acreage enables producers to plant sufficient acreage to maintain their production levels even under extremely adverse weather conditions that would prevent planting of most other crops.

In addition to the changes indicated above, FCIC has made the following changes:

1. Section 1—Removed definitions of ''days,'' ''FSA,'' ''final planting date,'' and ''USDA,'' because these definitions were moved to the Basic Provisions. Changed the definition of ''unit'' to ''basic unit.''

2. Section 12(b)—Revised for clarification. Also, added an example of an indemnity calculation for illustration purposes.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Guaranteed tobacco, Tobacco (guaranteed plan) endorsement.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. Section 401.129 introductory paragraph is revised to read as follows:

§ 401.129 Tobacco (guaranteed plan) endorsement

The provisions of the Tobacco (Guaranteed Plan) Crop Insurance

Endorsement for the 1990 through the 1998 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

4. Section 457.136 is added to read as follows:

§ 457.136 Guaranteed tobacco crop insurance provisions

The Guaranteed Tobacco Crop Insurance Provisions for the 1999 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Guaranteed Tobacco Crop Insurance Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions.

Adequate stand. A population of live plants per unit of acreage that can be expected to produce at least your production guarantee.

Approved yield. The yield calculated in accordance with 7 CFR part 400, subpart G, if required by section 3(b) of these provisions.

Average value. For appraised production, the estimated value of all such production divided by the appraised pounds. For harvested production, the total value of such production divided by the harvested pounds.

Basic unit. In lieu of the definition in the Basic Provisions, a basic unit is all insurable acreage of an insurable type of tobacco in the county in which you have a share on the date of planting for the crop year and that is identified by a single FSA farm serial number at the time insurance first attaches under these provisions for the crop year.

Carryover tobacco. Any tobacco produced on the FSA farm serial number in previous years that remained unsold at the end of the most recent marketing year.

Discount variety. Tobacco defined as such under the provisions of the United States Department of Agriculture tobacco price support program.

Fair market value. The current year's tobacco season average market price for the applicable type of tobacco obtained from the average sale of tobacco through a market other than an auction warehouse.

Harvest. Cutting or priming and removing all insured tobacco from the field in which it was grown.

Hydroponic plants. Seedlings grown in liquid nutrient solutions.

Late planting period. In lieu of the definition in section 1 of the Basic Provisions, the period that begins the day after the final planting date for the insured crop and ends 15 days after the final planting date, unless otherwise specified in the Special Provisions.

Market price.

(a) For types 11, 12, 13, 14, 21, 22, 23, 31, 35, 36, 37, 42, 44, 54, and 55:

(1) The support price per pound for the insured type of tobacco as announced by the USDA for its tobacco price support program; or

(2) The current year's season average market price, when available; if not available because the insured type of tobacco has not been marketed in the area, the previous year's season average market price for the applicable insured type tobacco grown in the area for any crop year a tobacco price support program is not in effect.

(b) For types 32, 41, 51, 52, and 61, the current year's season average market price, when available; if not available because the insured type of tobacco has not been marketed in the area, the previous year's season average market price for the applicable insured type of tobacco grown in the area.

Planted acreage. Land in which tobacco seedlings, including hydroponic plants, have been transplanted by hand or machine from the tobacco bed to the field.

Pound. Sixteen ounces avoirdupois.

Priming. A method of harvesting tobacco by which each leaf is severed from the stalk as it matures.

Production guarantee (per acre). Either the number of pounds of tobacco for the tobacco type and classification shown on the county actuarial table, or the approved yield as provided in the Special Provisions, multiplied by the coverage level percentage you elect.

Replanting. In lieu of the definition in section 1 of the Basic Provisions, performing the cultural practices necessary to replace the tobacco plant, and then replacing the tobacco plant in the insured acreage with the expectation of producing at least the guarantee.

Season average market price. The simple average price paid by buyers for a tobacco type for all days sales occur at public markets during the tobacco sales season in the area in which the farm is located.

Support price. The average price per pound for the type of tobacco as announced by the USDA under its tobacco price support program, or, if there is no such program, as announced by FCIC.

Tobacco bed. An area protected from adverse weather in which tobacco seeds are sown and seedlings are grown until transplanted into the tobacco field by hand or machine.

2. Unit Division.

A unit will be determined in accordance with the definition of basic unit contained in section 1 of these Crop Provisions. The provision in the Basic Provisions regarding optional units are not applicable, unless specified by the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 of the Basic Provisions:

(a) You must select only one price election and coverage level for each guaranteed tobacco type designated in the Special Provisions that you elect to insure.

(b) A production report, if required by the Special Provisions, must be filed in accordance with section 3(c) of the Basic Provisions.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage.

In addition to the requirements of section 6 of the Basic Provisions, you must report any carryover tobacco from previous years on the acreage report.

7. Insured Crop.

In accordance with section 8 of the Basic Provisions, the insured crop will be any of the tobacco types designated in the Special Provisions, in which you have a share, that you elect to insure, and for which a premium rate is provided by the actuarial documents.

8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage under these crop provisions that is:

(a) Planted to a discount variety;

(b) Planted to a tobacco type for which no premium rate is provided by the actuarial documents;

(c) Planted in any manner other than as provided in the definition of ''planted acreage'' in section 1 of these Crop Provisions, unless otherwise provided by the Special Provisions or by written agreement; or

(d) Damaged before the final planting date to the extent that most producers of tobacco acreage with similar characteristics in the area would normally not further care for the crop, unless such crop is replanted or we agree that replanting is not practical.

9. Insurance Period.

In accordance with the provisions of section 11 of the Basic Provisions, insurance ceases at the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) Weighing-in at the tobacco warehouse;

(c) Removal of the tobacco from the field where grown except for curing, grading, packing, or immediate delivery to the tobacco warehouse; or

(d) The calendar date for the end of the insurance period, which is:

(i) Types 11 and 12—November 30;

(ii) Type 13—October 31;

(iii) Type 14—October 15;

(iv) Types 31 and 36—February 28;

(v) Types 21, 35 and 37—March 15;

(vi) Types 22 and 23—April 15;

(vii) Type 32—May 15;

(viii) All other types—April 30.

10. Causes of Loss.

In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption; or

(h) Failure of the irrigation water supply, if caused by a peril specified in section 10(a) through (g) that occurs during the insurance period.

11. Duties In The Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, any representative samples we may require of each unharvested tobacco type must be at least 5 feet wide (at least two rows), and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until after our inspection.

(b) If tobacco types 11, 12, 13, or 14 are insured and you have filed a notice of damage, you also must leave all tobacco stalks and stubble intact for our inspection. The stalks and stubble must not be destroyed until we give you written consent to do so or until 30 days after the end of the insurance period, whichever is earlier.

12. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result in section 12(b)(1) by the respective price election, by type if applicable;

(3) Totaling the results of section 12(b)(2) if there are more than one type;

(4) Multiplying the total production to count (see section 12(c)), for each type if applicable, by its respective price election;

(5) Totaling the results of section 12(b)(4), if there are more than one type;

(6) Subtracting the results of section 12(b)(4) from the results of section 12(b)(2) if there is only one type or subtracting the results of section 12(b)(5) from the result of section 12(b)(3) if there are more than one type; and

(7) Multiplying the result of section 12(b)(6) by your share.

For example:

You have 100 percent share in 1 acre of type 35 (dark air cured) guaranteed tobacco in the unit, with a 2,000 pounds per acre guarantee and a price election of $2.00 per pound. You are only able to harvest 500 pounds. Your indemnity would be calculated as follows:

(1) 1.0 acre × 2,000 pounds = 2,000 pounds guarantee;

(2) 2,000 pounds × $2.00 price election = $4,000.00 value of guarantee;

(4) 500 pounds × $2.00 price election = $1,000.00 value of production to count;

(6) $4,000.00 − $1,000.00 = $3,000.00 loss; and

(7) $3,000 × 100 percent = $3,000 indemnity payment.

(c) The total production to count (pounds of appraised or harvested production multiplied by the applicable price) for all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for the unit for any acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) For which you fail to provide production records, if required by the Special Provisions, that are acceptable to us; or

(E) Of types 11, 12, 13, or 14 when the stalks and stubble have been destroyed without our consent;

(ii) Production lost due to uninsured causes.

(iii) Potential production on insured acreage that you intend to put to another use or abandon with our consent, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The value of production to count for such acreage will be the number of pounds harvested or appraised production multiplied by the support price taken from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from insurable acreage.

(d) Mature tobacco production that is damaged by insurable causes will be adjusted for quality based on the USDA Official Standard Grades for the insured type if it has an average value less than the market price, as follows:

(1) Divide the average value of the damaged appraised and/or harvested production by the market price;

(2) Multiply the result in section 12(d)(1) (not to exceed 1.0) by the number of pounds of damaged appraised and/or harvested tobacco; and

(3) Multiply the product by your price election.

If no market price has been established for the grade of the damaged tobacco, a market price will be imputed by reducing the lowest available market price by 20 percent for each grade that the production falls below the grade for which such lowest market price is available.

(e) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed. Failure to provide us the opportunity to inspect such tobacco may result in rejection of any claim for indemnity.

(f) If we consider the best offer you receive for any such tobacco to be inadequate, we may obtain additional offers on your behalf.

(g) Once we agree that any carryover or current year's tobacco has no market value due to insured causes, you must destroy it and it will not be considered production to count. If you refuse to destroy such tobacco, we will include it as production to count and value it at the support price.

13. Late Planting.

In lieu of late planting provisions in the Basic Provisions regarding acreage initially planted after the final planting date, insurance will be provided for acreage planted to the insured crop after the final planting date as follows:

(a) The production guarantee (per acre) for each type planted during the late planting period will be reduced by:

(1) One percent (1%) for the 1st through the 10th day; and

(2) Two percent (2%) for the 11th through the 15th day;

(b) The premium amount for insurable acreage planted to the insured crop after the final planting date will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage planted after the final planting date exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

14. Prevented Planting.

The prevented planting provisions in the Basic Provisions are not applicable to guaranteed tobacco.

Signed in Washington, D.C., on June 19, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–16967 Filed 6–24–98; 8:45 am]

BILLING CODE 3401–08–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 801

RIN 0580–AA60

Tolerances for Moisture Meters

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

ACTION: Interim rule with request for comments.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending regulations under the United States Grain Standards Act (USGSA) by revising tolerances for moisture meters used in official grain inspection services. GIPSA is making this revision to reflect tolerances for both the current official moisture meter, the Motomco Model 919, and the Dickey-john GAC 2100, which will be phased in as the new official moisture meter beginning on August 1, 1998.

DATES: This interim rule is effective August 1, 1998. To be assured of consideration, written comments must be filed before August 24, 1998.

ADDRESSES: Written comments must be sent to Sharon Vassiliades, GIPSA, USDA, STOP 3649, Washington, D.C. 20250–3649; FAX to (202) 720–4628; or e-mail svassili@fgisdc.usda.gov.

All comments received will be made available for public inspection in Room 0623, USDA South Building, 1400 Independence Avenue, SW, Washington, D.C., during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Sharon Vassiliades, address as above, telephone (202) 720–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The Act provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, 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 this rule.

Effect on Small Entities

The Administrator of GIPSA certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601). GIPSA is making this revision to reflect tolerances for the current official moisture meter, the Motomco Model 919, and the Dickey-john GAC 2100, which is being phased in as the new official moisture meter beginning on August 1, 1998. The revised tolerances will be applied to moisture meters owned and used by GIPSA, 8 delegated States, and the 57 official agencies (49 private entities and 8 State agencies) to perform official grain inspection services. Most of these agencies would be considered small entities under Small Business Administration criteria. Although the check testing procedure for the new meter is simpler than that for the current meter, the tolerance on the new moisture meter used for official inspection is being neither tightened nor relaxed as compared to the tolerances for the current meter. There is, therefore, little impact of making these tolerance changes in the regulations on small or large entities engaged in the inspection of grain.

Information Collection and Recordkeeping Requirements.

In accordance with the Paperwork Reduction Act of 1995, the recordkeeping and reporting burden imposed by Part 801 was previously approved by OMB under control number 0580–0013 and will not be affected by this rule.

Background

GIPSA has selected a new official moisture meter for the national grain inspection system. This was announced in the **Federal Register** on April 9, 1998 (63 FR 17356). In a separate notice document published in the **Federal Register** on this date, GIPSA announces that as of August 1, 1998, all official moisture content measurements of corn, soybeans, and sunflower seed inspected under the USGSA will be made with the GAC 2100. Transition dates for other grains will be announced separately at a later time. Use of the new instruments for official moisture measurements will be phased in over a 2-year period. The maintenance tolerances for moisture meters are stated for low, mid, and high moisture ranges for both direct comparison and sample exchange testing. These tolerances have been and will continue to be applied to the Motomco 919 moisture meters used for official inspection until such time as they are replaced by the GAC 2100.

Differences in technology between the GAC 2100 and the Motomco 919 have necessitated the development of a new procedure for checking the performance of individual GAC 2100 meters against standard meters to determine whether they are in tolerance. The current three moisture range tolerances and the direct comparison method for checking meters, other than Headquarters meters, used for the Motomco 919 will not be needed to determine if the GAC 2100 meters are in tolerance. The current mid range moisture tolerance for Headquarters, and all other than Headquarters meters, will be used to determine if the GAC 2100 is within tolerance. Further, for the meters other than Headquarters, only the sample exchange method will be used.

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 until 30 days after publication in the **Federal Register** because: (1) the tolerance for the new moisture meter is being neither tightened nor relaxed as compared to the tolerance for the current meter; (2) the 1999 grain market year begins August 1, 1998, and the changes should be in effect to allow the use of the new moisture meter at the beginning of the marketing year for corn, soybeans and sunflower seed; (3) this rule provides a 60-day opportunity for comment, and all written comments timely received will be considered prior to finalization of the rule.

List of Subjects in 7 CFR Part 801

Grains, Scientific equipment.

For reasons set forth in the preamble, 7 CFR Part 801 is amended as follows:

1. The authority citation for Part 801 continues to read as follows:

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

2. Section 801.6 is revised to read as follows:

§ 801.6 Tolerances for moisture meters.

(a) The maintenance tolerances for Motomco 919 moisture meters used in performing official inspection services shall be:

(1) Headquarters standard meters:

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	±0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	
Mid	± 0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	
High	± 0.05 percent moisture, mean deviation from National standard moisture meter using Hard Red Winter wheat	

(2) All other than Headquarters standard meters:

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
Mid	± 0.10 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
High	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.

(b) The maintenance tolerances for GAC 2100 moisture meters used in performing official inspection services shall be:

(1) Headquarters standard meters. By direct comparison using mid-range Hard Red Winter wheat, ± 0.05% mean deviation for the average of the Headquarters standard moisture meters.

(2) All other than Headquarters standard meters. By sample exchange using mid-range Hard Red Winter wheat, ± 0.15% mean deviation from the standard meter.

Dated: June 19, 1998.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–16964 Filed 6–24–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–143–AD; Amendment 39–10597; AD 98–13–09]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

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

DATES: Effective August 1, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 1, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from AERMACCHI, Product Support, Via Indipendenza 2, 21018 Sesto Calende (VA), Italy; telephone: +39–331–929117; facsimile: +39–331–922525. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–143–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain AERMACCHI Models F.260, F.260B, F.260C, and F.260D airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 13, 1998 (63 FR 17969). The NPRM proposed to require marking the airspeed indicator with a black arc to indicate the correct stall speed and flap operation range of the airplane. Accomplishment of the proposed action as specified in the NPRM would be in accordance with SIAI Marchetti S.p.A. Service Bulletin No. 260B54, dated May 28, 1993.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

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

Regulatory Impact

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

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–09 AERMACCHI S.P.A.: Amendment 39–10597; Docket No. 97–CE–143–AD.

Applicability: Models F.260, F.260B, F.260C, and F.260D airplanes, serial numbers 001 through 848, certificated in any category.

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

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

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

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

Note 2: Although the SIAI Marchetti S.p.A. service bulletin referenced above calls out all of the operating ranges indicated on the airspeed indicator, it is the FAA's intent in this AD to focus only on the flap operating range.

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

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

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

(e) The modification required by this AD shall be done in accordance with SIAI Marchetti Service Bulletin No. 260B54, dated May 28, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AERMACCHI, Product Support, Via Indipendenza 2, 21018 Sesto Calende (VA), Italy. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Italian AD 93–220, dated July 29, 1993.

(f) This amendment becomes effective on August 1, 1998.

Issued in Kansas City, Missouri, on June 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16021 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–250–AD; Amendment 39–10602; AD 98–13–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires repetitive rotating probe inspections of fastener holes and/or the adjacent tooling hole of a former junction of the aft fuselage, and corrective action, if necessary. This amendment also provides for optional terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent reduced structural integrity of the aft fuselage caused by fatigue cracking of the former junction at frame 68.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on April 20, 1998 (63 FR 19421). That action proposed to require repetitive rotating probe inspections of fastener holes and/or the adjacent tooling hole of a former junction of the aft fuselage, and corrective action, if necessary. That action also provided for optional terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 10 Airbus Model A320 series airplanes of U.S. registry will be affected by this AD.

Should an operator be required to accomplish the inspection of the fastener holes and the adjacent tooling hole, it will take approximately 8 work hours per airplane to accomplish this inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection required by this AD on U.S. operators is estimated to be $480 per airplane, per inspection cycle.

Should an operator be required to accomplish the inspection of only the tooling hole, it will take approximately 3 work hours per airplane to accomplish this inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection required by this AD on U.S. operators is estimated to be $180 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional terminating action specified in this AD, it would take approximately 9 work hours to cold work the fastener holes and tooling hole, or 3 work hours to cold work (only) the tooling hole. The average labor rate is $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $540 per airplane for cold working the fastener hole and tooling holes, or $180 per airplane for cold working (only) the tooling hole.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–14 Airbus Industrie: Amendment 39–10602. Docket 97–NM–250–AD.

Applicability: Model A320 series airplanes, as listed in Airbus Service Bulletins A320–53–1089 and A320–53–1090, both dated November 22, 1995; on which Airbus Modifications 21780 and 21781 (reference Airbus Service Bulletin A320–53–1090) have not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the former junction at frame 68, which could result in reduced structural integrity of the aft fuselage, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, perform a rotating probe inspection for fatigue cracking of the fastener holes and/or the adjacent tooling hole, as applicable, of the right- and left-hand former junctions at frame 68, in accordance with Airbus Service Bulletin A320–53–1089, dated November 22, 1995.

(1) If no crack is detected, accomplish either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the inspection thereafter at intervals not to exceed 20,000 flight cycles.

Or

(ii) Prior to further flight following the accomplishment of the inspection required by paragraph (a) of this AD, cold work the fastener holes and/or the adjacent tooling hole of the right- and left-hand former junctions at frame 68, as applicable, in accordance with Airbus Service Bulletin A320–53–1090, dated November 22, 1995. Accomplishment of this cold working constitutes terminating action for the repetitive inspections required by this AD.

(2) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

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

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

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

(d) Except as provided by paragraph (a)(2) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A320–53–1089, dated November 22, 1995 and Airbus Service Bulletin A320–53–1090, dated November 22, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 96–298–093(B)R1, dated January 29, 1997.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16053 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–65–AD; Amendment 39–10604; AD 98–13–16]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes, that requires replacement of the horizontal stabilizer anti-icing valve with a new anti-icing valve. This amendment also requires reinforcement of the insulation over the anti-icing ducts of the horizontal stabilizer thermal anti-icing system. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the horizontal stabilizer anti-icing valve, which could cause the horizontal stabilizer thermal anti-icing system to be inoperative, and could result in reduced controllability of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John W. McGraw, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6098; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19673). That action proposed to require replacement of the horizontal stabilizer anti-icing valve with a new anti-icing valve. That action also proposed to require reinforcement of the insulation over the anti-icing ducts of the horizontal stabilizer thermal anti-icing system.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 17 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,040, or $120 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–16 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–10604. Docket 98–NM–65–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145027 inclusive, equipped with horizontal stabilizer anti-icing valve having part number (P/N) 329445; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the horizontal stabilizer anti-icing valve, which could cause the horizontal stabilizer thermal anti-icing system to be inoperative, and could result in reduced controllability of the airplane, accomplish the following:

(a) Within 400 flight hours after the effective date of this AD, replace the horizontal stabilizer anti-icing valve with a new anti-icing valve, and reinforce the insulation over the anti-icing ducts of the horizontal stabilizer thermal anti-icing system; in accordance with EMBRAER Service Bulletin 145–30–0007, dated November 13, 1997.

(b) As of the effective date of this AD, no person shall install on any airplane a horizontal stabilizer anti-icing valve having part number 329445.

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

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

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

(e) The actions shall be done in accordance with EMBRAER Service Bulletin 145–30–0007, dated November 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 98–01–04, dated January 15, 1998.

(f) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16051 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–66–AD; Amendment 39–10605; AD 98–13–17]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER EMB–145 series airplanes, that requires modification of the windshield heating system in the flight compartment. This amendment is prompted by reports of overheating and delamination of the windshield because the windshield heating system failed to shut off during flight. The action specified by this AD is intended to prevent failure of the windshield heating system, which could result in reduced pilot visibility, structural degradation of the windshield, and depressurization of the airplane during flight.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John W. McGraw, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6098; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER EMB–145 series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19677). That action proposed to require modification of the windshield heating system in the flight compartment.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 17 airplanes of U.S. registry will be affected by this AD. It will take approximately 12 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $12,240, or $720 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–17 EMPRESA BRASILEIRA dE AERONAUTICA S.A. (EMBRAER): Amendment 39–10605. Docket 98–NM–66–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145029 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the windshield heating system, which could result in reduced pilot visibility, structural degradation of the windshield, and depressurization of the airplane during flight, accomplish the following:

(a) Within 60 days after the effective date of this AD, modify the windshield heating system in accordance with EMBRAER Service Bulletin 145–30–0008, dated November 10, 1997.

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

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

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

(d) The modification shall be done in accordance with EMBRAER Service Bulletin 145–30–0008, dated November 10, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16050 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–102–AD; Amendment 39–10607; AD 98–13–19]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, that requires a one-

time detailed visual inspection of the forward fuel feed lines in the left- and right-hand engine nacelles for chafing; replacement of damaged parts with serviceable parts; and modification of the supports and improved routing for the high- and low-tension leads of the inboard ignition units. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent chafing on the forward fuel feed lines, which could result in fuel leakage and consequent increased risk of fire in the engine nacelles.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes was published in the **Federal Register** on April 23, 1998 (63 FR 20141). That action proposed to require a one-time detailed visual inspection of the forward fuel feed lines in the left- and right-hand engine nacelles for chafing; replacement of damaged parts with serviceable parts; and modification of the supports and improved routing for the high- and low-tension leads of the inboard ignition units.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 34 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $2,040, or $60 per airplane.

It will take approximately 4 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. The cost of required parts would be minimal. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $8,160, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–19 Fokker Services B.V.: Amendment 39–10607. Docket 98–NM–102–AD.

Applicability: All Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing on the forward fuel feed lines, which could result in fuel leakage and consequent increased risk of fire in the engine nacelles, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a one-time detailed visual inspection of the left- and right-hand engine nacelles for chafing of the forward fuel feed lines by the high- and low-tension leads of the inboard ignition units, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin F27/28–62, dated September 1, 1997. If any chafing is detected, prior to further flight, replace the fuel line with a new fuel line in accordance with Part 1 of the Accomplishment Instructions of the service bulletin.

(b) Within 6 months after the effective date of this AD, modify the supports and reroute the high- and low-tension leads of the inboard ignition units, in accordance with Part 2 of the Accomplishment Instructions of

Fokker Service Bulletin F27/28–62, dated September 1, 1997.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

(e) The actions shall be done in accordance with Fokker Service Bulletin F27/28–62, dated September 1, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive BLA 1997–094 (A), dated September 30, 1997.

(f) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16049 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–75–AD; Amendment 39–10606; AD 98–13–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319 and A321–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319 and A321–100 series airplanes, that requires adjustment of the landing gear unlocked-stop screw; replacement of the shear pins in the reduction gear box and the landing gear pulley assembly with new or serviceable shear pins; a one-time inspection to detect discrepancies of the landing gear cut-out valve; an operational test of the uplock mechanical control system; and follow-on corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent non-extension of one or more landing gears, consequent damage to the airplane structure, and possible injury to passengers and crewmembers.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319 and A321–100 series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19678). That action proposed to require adjustment of the landing gear unlocked-stop screw; replacement of the shear pins in the reduction gear box and the landing gear pulley assembly with new or serviceable shear pins; a one-time inspection to detect discrepancies of the landing gear cut-out valve; an operational test of the uplock mechanical control system; and follow-on corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,400, or $1,200 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–18 Airbus Industrie: Amendment 39–10606. Docket 98–NM–75–AD.

Applicability: Model A319 series airplanes, manufacturer's serial numbers 578 through 625 inclusive; and Model A321–100 series airplanes, manufacturer's serial numbers 385 through 620 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent non-extension of one or more landing gears, consequent damage to the airplane structure, and possible injury to passengers and crewmembers, accomplish the following:

(a) Within 400 flight hours after the effective date of this AD, accomplish the actions required by paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, in accordance with Airbus Industrie A319/A321 All Operator Telex (AOT) 32–15, dated July 1, 1997.

(1) Adjust the landing gear unlocked-stop screw.

(2) Replace the shear pins in the reduction gear box and the landing gear pulley assembly with new or serviceable shear pins.

(3) Inspect the cut-out valve for discrepancies. If any discrepancy to the cut-out valve is detected, accomplish the requirements of paragraphs (a)(3)(i) and (a)(3)(ii) of this AD at the time specified in the AOT.

(i) Replace the cut-out valve with a new or serviceable part within the time specified in the AOT.

(ii) After replacing the cut-out valve, perform a functional test of the normal extension and retraction of the landing gear and of the free-fall extension system. If any discrepancy is detected during the accomplishment of either of the functional tests, prior to further flight, repair in accordance with the AOT.

(4) Perform an operational test of the gear uplock and door uplock mechanical control system. If any discrepancy is detected during the accomplishment of the operational test, prior to further flight, repair in accordance with the AOT.

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

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

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

(d) The actions shall be done in accordance with Airbus Industrie A319/A321 All Operator Telex (AOT) 32–15, dated July 1, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–177–101(B), dated August 13, 1997.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 11, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16048 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–86–AD; Amendment 39–10599; AD 98–13–11]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model 1900D airplanes. This action requires modifying the airplane by incorporating Raytheon Kit No. 129–5200–1, ''Ground Fine Switch Installation Kit''. This action is the result of design analysis during certification of 5.5 degree approach landings of the Model 1900D airplanes. The actions specified by this AD are intended to prevent a loose or misrigged ground fine switch, which could result in very hard landings causing structural damage to the airplane and possible passenger injury.

DATES: Effective August 3, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 3, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–86–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Griffith, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209; telephone: (316) 946–4145; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Raytheon Model 1900D

airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 2, 1998 (63 FR 3278). The NPRM proposed to require modifying the airplane by incorporating Raytheon Kit No. 129–5200–1, ''Ground Fine Switch Installation Kit''. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2714, Issued: June, 1997.

The NPRM was the result of design analysis during certification of 5.5 degree approach landings of the Model 1900D airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. The comments received on the proposed rule have been given due consideration.

The manufacturer, Raytheon Aircraft Company, states that the ''Ground Fine Switch Installation Kit'' number is wrong. The kit number cited in the NPRM was P129–5200–1. Raytheon states that the ''P'' in front of the number was used to indicate ''prototype'' during the approval process. The actual kit number should be 129–5200–1. The FAA concurs and will remove the ''P'' on all references to Raytheon Kit No. P129–5200–1 in the preamble and body of the AD.

The other comment received was from the Air Line Pilots Association (ALPA). ALPA concurs with the actions in the proposed AD.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the corrections mentioned above and minor editorial corrections. The FAA has determined that these corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 271 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Raytheon is providing the kit and labor at no cost to the owners/operators under their Warranty Credit program for 12 months after the last day of the month that the manufacturer's service bulletin was issued. If there were no warranty on the parts and labor to accomplish this action, the cost for U.S. operators is estimated to be $65,040 or $240 per airplane. This figure is based on the assumption that no affected operators have accomplished this action.

Regulatory Impact

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

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–11 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39–10599; Docket No. 97–CE–86–AD.

Applicability: Model 1900D airplanes, serial numbers UE–1 through UE–271, certificated in any category.

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

Compliance: Required within the next 800 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent a loose or misrigged ground fine switch, which could result in very hard landings causing structural damage to the airplane and possible passenger injury, accomplish the following:

(a) Modify the ground idle low pitch stop system on the airplane by incorporating Raytheon ''Ground Fine Switch Installation Kit'' No. 129–5200–1 in accordance with the Accomplishment Instructions section of Raytheon Aircraft Mandatory Service Bulletin No. 2714, Issued: June, 1997.

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

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

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

(d) The modification required by this AD shall be done in accordance with Raytheon Aircraft Mandatory Service Bulletin No. 2714, Issued: June, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on August 3, 1998.

Issued in Kansas City, Missouri, on June 10, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16166 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–40–AD; Amendment 39–10608; AD 98–11–01 R1]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Airworthiness Directive (AD) 98–11–01, which currently requires replacing the fuel tank vent valves and drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap on certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. AD 98–11–01 also requires inserting a temporary revision in the Pilot's Operating Handbook (POH) that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects. This AD maintains the requirements of AD 98–11–01, and adds the option of modifying the fuel tank vent valves instead of the drilling and POH requirements carried over from AD 98–11–01. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to continue to prevent moisture from entering the fuel tank inward vent valve and then freezing after a cold soak at altitude, which could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

DATES: Effective September 22, 1998.

The incorporation by reference of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997, as listed in the regulations, was previously approved by the Director of the Federal Register as of December 1, 1997 (62 FR 59993, November 6, 1997).

The incorporation by reference of Pilatus Service Bulletin No. 28–004, dated March 27, 1998, as listed in the regulations, was previously approved by the Director of the Federal Register as of June 7, 1998 (63 FR 27195, May 18, 1998).

The incorporation by reference of Pilatus Service Bulletin No. 28–005, dated May 4, 1998, is approved by the Director of the Federal Register as of September 22, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 24, 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–40–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–40–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

On October 29, 1997, the FAA issued AD 97–23–04, mendment 39–10192 (62 FR 5993, November 6, 1997), which applies to certain Pilatus Models PC–12 and PC–12/45 airplanes. AD 97–23–04 was the result of a report from the Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, of an instance of abnormal automatic engagement of the fuel booster pumps during normal operation of a Pilatus Model PC–12 airplane. The FOCA's investigation revealed that the fuel tank inward vent valves may fail in the closed position under certain conditions. Moisture ingestion, followed by cold soak, can lead to the fuel tank inward vent valve freezing.

AD 97–23–04 required replacing the fuel tank vent valves with modified fuel tank vent valves before the FAA superseded it with AD 98–11–01, Amendment 39–10528 (63 FR 27195, May 18, 1998). AD 98–11–01 currently requires the fuel tank vent valves replacement required by AD 97–23–04, and requires drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap.

This AD also requires inserting the following temporary revision to the POH that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects:

''PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision, Fuel Filler Cap, dated March 27, 1998.''

Accomplishment of the replacement is required in accordance with Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997. Accomplishment of the drilling and POH insertion is required in accordance with Pilatus Service Bulletin No. 28–004, dated March 27, 1998.

AD 98–11–01 was the result of a report of an incident where the inward vent valve of the fuel tank froze closed on one of the affected airplanes that was in compliance with the fuel tank vent valves replacement requirement of AD 97–23–04. This resulted in permanent structural damage to the wing skins and ribs.

This condition, if not corrected, could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities.

Relevant Service Information

Pilatus has issued Service Bulletin No. 28–005, dated May 4, 1998, which specifies procedures for modifying the fuel tank vent valves. This modification, when incorporated, would eliminate the need for the drilling and POH requirements of AD 98–11–01.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 98–126, dated May 15, 1998, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

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

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the referenced service 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 the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Models PC–12 and PC–12/45 airplanes of the same type design registered in the United States, the FAA

is issuing an AD to revise AD 98–11–01. This AD:

—Maintains the requirements in AD 98–11–01 of replacing the fuel tank vent valves, drilling a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap, and inserting a temporary revision in the POH that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects; and

—Adds the option of modifying the fuel tank vent valves instead of the drilling and POH requirements carried over from AD 98–11–01.

Accomplishment of the actions specified in this AD would be required in accordance with the following:

—Replacement: Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997;

—Drilling: Pilatus Service Bulletin No. 28–004, dated March 27, 1998; and

—Modification: Pilatus Service Bulletin No. 28–005, dated May 4, 1998.

Cost Impact

The FAA estimates that 100 airplanes in the U.S. registry will be affected by this AD. The only difference between this AD and AD 98–11–01 is the provision of accomplishing the modification instead of the drilling and POH insertion requirements carried over from AD 98–11–01. This replacement takes approximately 8 workhours per airplane to accomplish at an average labor rate of approximately $60 per work hour. Parts will be provided at no cost to the owner/operator of the affected airplanes. Based on these figures, the cost impact of this AD on U.S. operators that choose to incorporate the modification option instead of the drilling and POH requirements carried over from AD 98–11–01 is estimated to be $48,000, or $480 per airplane.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. The requirements of this direct final rule address an unsafe condition identified by a foreign civil airworthiness authority and do not impose a significant burden on affected operators. In accordance with § 11.17 of the Federal Aviation Regulations (14 CFR 11.17) unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–40–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98–11–01, Amendment 39–10528 (63 FR 27195, May 18, 1998), and by adding a new AD to read as follows:

98–11–01 R1 Pilatus Aircraft, LTD.: Amendment 39–10608; Docket No. 98–CE–40–AD; Revises AD 98–11–01, Amendment 39–10528.

Applicability: Models PC–12 and PC–12/45 airplanes; serial numbers 101 through 230, 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 (f) 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 moisture from entering the fuel tank inward vent valve and then freezing after a cold soak at altitude, which could result in wing airfoil distortion and structural damage with consequent degradation of the airplane's handling qualities, accomplish the following:

(a) Within the next 10 hours time-in-service (TIS) after December 1, 1997 (the effective date of AD 97–23–04), replace the fuel tank vent valves with modified fuel tank vent valves in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997.

(b) Within the next 10 hours TIS after June 7, 1998 (the effective date of AD 98–11–01), accomplish the following:

(1) Drill a 4.8 millimeter (0.1875 inch) hole in each fuel filler cap in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–004, dated March 27, 1998.

(2) Insert a temporary revision (as referenced in Pilatus Service Bulletin 28–004, dated March 27, 1998) into the Pilot's Operating Handbook (POH) that specifies checking to assure that the fuel filler cap hole is clear of ice and foreign objects. This document is entitled ''PC–12 Pilot's Operating Handbook, Pilatus Report No. 01973–001, Temporary Revision, Fuel Filler Cap, dated March 27, 1998.''

(c) Inserting the POH revision, as required by paragraph (b)(2) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(d) As an alternative method of compliance to the actions required in paragraphs (b)(1) and (b)(2) of this AD, modify the fuel tank vent valve system in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 28–005, dated May 4, 1998.

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

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

(1) 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.

(2) Alternative methods of compliance approved in accordance with AD 98–11–01 (superseded by this action) and with AD 97–23–04 (superseded by AD 98–11–01) are 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 Small Airplane Directorate.

(g) Questions or technical information to the service information referenced in this document should be directed to Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. 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.

(h) The replacement required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997. The drilling required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–004, dated March 27, 1998. The modification required by this AD shall be done in accordance with Pilatus Service Bulletin No. 28–005, dated May 4, 1998.

(1) The incorporation by reference of Pilatus Service Bulletin No. 28–003, Revision 1, dated September 30, 1997, was previously approved by the Director of the Federal Register as of December 1, 1997 (62 FR 59993, November 6, 1997).

(2) The incorporation by reference of Pilatus Service Bulletin No. 28–004, dated March 27, 1998, was approved by the Director of the Federal Register as of June 7, 1998 (63 FR 27195, May 18, 1998).

(3) The incorporation by reference of Pilatus Service Bulletin No. 28–005, dated May 4, 1998, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(4) Copies of these service bulletins may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swiss AD HB 97–432A, dated October 3, 1997; Swiss AD HB 98–086, dated March 31, 1998; and Swiss AD HB 98–126, dated May 15, 1998.

(i) This amendment revises AD 98–11–01, Amendment 39–10528; which superseded AD 97–23–04, Amendment No. 39–10192.

(j) This amendment becomes effective on September 22, 1998.

Issued in Kansas City, Missouri, on June 11, 1998.

Ronald K. Rathgeber,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16163 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–12–AD; Amendment 39–10609; AD 98–13–20]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A., Olympus 593 Series Turbojet Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A, Olympus 593 series turbojet engines. This action requires a radiological inspection of the combustion chamber No. 2 outer cooling ring scoop circumferential and axial weld for weld quality, and reweld and reinspection, if necessary; and an inspection of the combustion chamber No. 2 inner and outer cooling ring web length, marking acceptable components with the letter ''T'' adjacent to the part number, and replacement of unacceptable components with serviceable parts. This amendment is prompted by reports of circumferential cracks at the No. 2 outer and inner rings of the combustor chamber, resulting in a section of the combustion chamber detaching and causing significant ignitor and low pressure turbine damage. The actions specified in this AD are intended to prevent combustion chamber detachment, which could result in an inflight engine shutdown or an engine fire.

DATES: Effective July 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 10, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 24, 1998.

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

The service information referenced in this AD may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01–17–979–1234, fax 01–17–979–7575. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce Limited (R–R), Aero Division-Bristol, S.N.E.C.M.A., Olympus 593 Mk. 610–14–28 turbojet engines. The CAA advises that they have received reports of circumferential cracks at the No. 2 outer and inner rings of the combustor chamber, resulting in a section of the combustion chamber detaching and causing significant ignitor and low pressure turbine damage. The investigation revealed that the length of the web is under minimum drawing dimension, resulting in inadequate weld penetration, causing cracks to initiate and propagate along the weld joint. There are currently no affected engines operated on aircraft of U.S. registry. This AD, then, is necessary to require accomplishment of the required actions for engines installed on aircraft currently of foreign registry that may someday be imported into the US or aircraft that are currently operated in the U.S. Accordingly, the FAA has determined that notice and prior opportunity for comment are unnecessary and good cause exists for making this amendment effective in less than 30 days. This condition, if not corrected, could result in combustion chamber detachment, which could result in an inflight engine shutdown or an engine fire.

R–R has issued Service Bulletin (SB) No. OL.593–72–9038–417, dated June 26, 1996, that specifies procedures for a radiological inspection of the combustion chamber No. 2 outer cooling ring scoop circumferential and axial weld for weld quality, and reweld and reinspection, if necessary; and SB No. OL.593–72–9048–424, dated April 25, 1997, that specifies procedures for an inspection of the combustion chamber No. 2 inner and outer cooling ring web length, marking acceptable components with the letter ''T'' adjacent to the part number, and replacement of unacceptable components with serviceable parts. The CAA classified these SBs as mandatory and issued ADs 008–06–96 and 004–04–97 in order to assure the airworthiness of these engines in the UK.

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

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, this AD requires, at the next combustor exposure after the effective date of this AD, a radiological inspection of the combustion chamber No. 2 outer cooling ring scoop circumferential and axial weld for weld quality, and reweld and reinspection, if necessary; and an inspection of the combustion chamber No. 2 inner and outer cooling ring web length, marking acceptable components with the letter ''T'' adjacent to the part number, and replacement of unacceptable components with serviceable parts. The actions would be required to be accomplished in accordance with the SBs described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–12–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–20 Rolls-Royce Limited, Aero Division-Bristol, N.E.C.M.A.: Amendment 39–10609. Docket 98–ANE–12–AD.

Applicability: Rolls-Royce Limited (R–R), Aero Division-Bristol, S.N.E.C.M.A., Olympus 593 Mk. 610–14–28 turbojet engines, installed on but not limited to British Aerospace/Aerospatiale Concorde series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent combustion chamber detachment, which could result in an inflight engine shutdown or an engine fire, accomplish the following:

(a) At the next combustor exposure after the effective date of this AD, accomplish the following in accordance with the Accomplishment Instructions of R–R Service Bulletin (SB) No. OL.593–72–9038–417, dated June 26, 1996:

(1) Perform a radiological inspection of the combustion chamber No. 2 outer cooling ring scoop circumferential and axial weld for weld quality.

(2) If the weld quality does not meet the standards described in the SB, reweld and then perform an additional radiological inspection for weld quality prior to return to service.

(b) At the next combustor exposure after the effective date of this AD, accomplish the following in accordance with the Accomplishment Instructions of R–R SB No. OL.593–72–9048–424, dated April 25, 1997:

(1) Perform an inspection of the combustion chamber No. 2 inner and outer cooling ring for web length.

(2) If the web length is acceptable within the limits described in the SB, mark the letter ''T'' adjacent to the part number.

(3) If the web length is not acceptable within the limits described in the SB, remove the combustion chamber from service and replace affected components with serviceable parts prior to return to service.

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

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

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

(e) The actions required by this AD shall be performed in accordance with the following R–R SBs:

Document No.	Pages	Date
OL.593–72–9038–417. Total pages: 3.	1–3	June 26, 1996.
OL.593–72–9048–424. Total pages: 4.	1–4	April 25, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01–17–979–1234, fax 01–17–979–7575. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 10, 1998.

Issued in Burlington, Massachusetts, on June 11, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–16270 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–16–AD; Amendment 39–10616; AD 98–13–25]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes 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 amendment adds 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 amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this 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: Effective July 30, 1998.

The incorporation by reference of Fokker Service Bulletin F28/27–183, dated November 21, 1994, as listed in the regulations, is approved by the Director of the Federal Register as of July 30, 1998.

The incorporation by reference of Fokker Service Bulletin F28/27–180, dated July 3, 1992, as listed in the regulations, was approved by the Director of the Federal Register as of September 9, 1992 (57 FR 38432, August 25,1992).

ADDRESSES: The service information referenced in this AD 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton,

Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–18–04, amendment 39–8348 (57 FR 38432, August 25, 1992), which is applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, was published in the **Federal Register** on April 27, 1998 (63 FR 20554). The action proposed 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 action proposed to 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.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

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

The inspection that is currently required by AD 92–18–04 takes 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 previously required inspection on U.S. operators is estimated to be $1,620, or $60 per airplane.

The inspection that is required in this new AD action will 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 new inspection requirements of this AD on U.S. operators is estimated to be $3,240, or $120 per airplane.

The replacement required in this new AD action will take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the replacement required by 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 requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8348 (57 FR 38432, August 25, 1992), and by adding a new airworthiness directive (AD), amendment 39–10616 to read as follows:

98–13–25 Fokker: Amendment 39–10616. 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.

(g) The actions shall be done in accordance with Fokker Service Bulletin F28/27–180, dated July 3, 1992, and Fokker Service Bulletin F28/27–183, dated November 21, 1994.

(1) The incorporation by reference of Fokker Service Bulletin F28/27–183, dated November 21, 1994, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Fokker Service Bulletin F28/27–180, dated July 3, 1992, was approved previously by the Director of the Federal Register as of September 9, 1992 (57 FR 38432, August 25, 1992).

(3) Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, The Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

(h) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16451 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–51–AD; Amendment 39–10617; AD 98–13–26]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAC 1–11 200 and 400 series airplanes, that requires repetitive detailed visual inspections to detect cracking in the trunnion fittings located in the nose landing gear (NLG) bay of the forward fuselage; and repair, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct cracking in the trunnion fittings of the NLG, which could lead to collapse of the NLG during takeoff and landing, and possible injury to the flight crew and passengers.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all British Aerospace Model BAC 1–11 200 and 400 series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19682). That action proposed to require repetitive detailed visual inspections to detect cracking in the trunnion fittings located in the nose landing gear (NLG) bay of the forward fuselage; and repair, if necessary.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 42 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $2,520, 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 requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–26 British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Amendment 39–10617. Docket 98–NM–51–AD.

Applicability: All Model BAC 1–11 200 and 400 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the trunnion fittings of the nose landing gear (NLG), which could lead to collapse of the NLG during takeoff and landing, and possible injury to the flight crew and passengers, accomplish the following:

(a) Perform a detailed visual inspection for cracking on the left- and right-hand trunnion fittings of the NLG, in the area of the trunnion cap attachment holes, in accordance with British Aerospace Alert Service Bulletin 53–A–PM6035, Revision 1, dated March 7, 1996; at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes on which British Aerospace Modification PM5308 has not been accomplished: Perform the inspection within 6 years after the effective date of this AD, or within 11 years after the last inspection accomplished in accordance with the alert service bulletin, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 11 years.

(2) For airplanes on which British Aerospace Modification PM5308 has been accomplished: Perform the inspection within 30 months after the effective date of this AD, or within 5 years after the last inspection accomplished in accordance with the alert service bulletin, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6 years.

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair the crack in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. 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.

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

(e) The inspections shall be done in accordance with British Aerospace Alert Service Bulletin 53–A–PM6035, Revision 1, dated March 7, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–03–96, dated April 26, 1996.

(f) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16450 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–89–AD; Amendment 39–10618; AD 98–13–27]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires a one-time inspection to detect discrepancies of circuit breaker panels 10VE and 11VE; follow-on corrective actions; modification of the contact points; and installation of a high capacity fuse. This amendment also requires replacement of power relays 32HB and 36HB on relay panel 22VE with new parts. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent electrical short circuits of the contact points and power relays on the circuit breaker panels, which could result in increased risk of smoke and fire damage in the flight compartment.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19689). That action proposed to require a one-time inspection to detect discrepancies of circuit breaker panels 10VE and 11VE; follow-on corrective actions; modification of the contact points; and installation of a high capacity fuse. That action also proposed to require replacement of power relays 32HB and 36HB on relay panel 22VE with new parts.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection and application of sealant to the contact points, at an average labor rate of $60 per work hour. The cost of the sealant will be minimal. Based on this figure, the cost impact of the required inspection and modification on U.S. operators is estimated to be $120 per airplane.

It will take approximately 1 work hour per airplane to accomplish the required installation of a high capacity fuse on the circuit breaker panels, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on this figure, the cost impact of the required installation on U.S. operators is estimated to be $60 per airplane.

It will take approximately 5 work hours per airplane to accomplish the required replacement of the relays, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on this figure, the cost impact of the required replacement on U.S. operators is estimated to be $300 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–27 Dornier Luftfahrt GmbH: Amendment 39–10618. Docket 98-NM–89-AD.

Applicability: Model 328–100 series airplanes equipped with circuit breaker panels 10VE up to and including serial number 131, and 11VE up to and including serial number 133; and Model 328–100 series airplanes, serial numbers 3005 through 3095 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 prevent electrical short circuits of the contact points and power relays on the circuit breaker panels, which could result in increased risk of smoke and fire damage in the flight compartment, accomplish the following:

(a) For Model 328–100 series airplanes equipped with circuit breaker panels 10VE up to and including serial number 131, and 11VE up to and including serial number 133: Within 14 days after the effective date of this AD, perform a one-time visual inspection to detect discrepancies of circuit breaker panels 10VE and 11VE at the back lighting contact points, in accordance with Dornier Alert Service Bulletin ASB–328–31–016, dated April 2, 1997.

(1) If no discrepancy is detected, prior to further flight, modify the contact points by applying additional sealant in accordance with the alert service bulletin.

(2) If any discrepancy is detected, prior to further flight, replace the damaged circuit breaker panel with a new or serviceable panel and modify the contact points by applying additional sealant, in accordance with the alert service bulletin.

(b) For Model 328–100 series airplanes, serial numbers 3005 through 3095 inclusive: Within 90 days after the effective date of this AD, install a jiffy junction fitted with a high capacity fuse on circuit breaker panels 10VE and 11VE, in accordance with version 1 or version 2, as applicable, of the Accomplishment Instructions of Dornier Service Bulletin SB–328–31–226, dated June 16, 1997, including Price/Material Information Sheet.

(c) For Model 328–100 series airplanes, serial numbers 3005 through 3089 inclusive: Within 90 days after the effective date of this AD, replace relays 32HB and 36HB, part

number (P/N) DON405M520U5NL, on relay panel 22VE with new relays, P/N 2504MY1, in accordance with Dornier Service Bulletin SB–328–21–218, dated July 2, 1997, including Price/Material Information Sheet.

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

Note 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 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.

(f) The actions shall be done in accordance with Dornier Alert Service Bulletin ASB–328–31–016, dated April 2, 1997; Dornier Service Bulletin SB–328–31–226, dated June 16, 1997, including Price/Material Information Sheet; or Dornier Service Bulletin SB–328–21–218, dated July 2, 1997, including Price/Material Information Sheet, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directives 97–136, dated May 22, 1997; 97–330, dated November 20, 1997; and 97–323, dated November 20, 1997.

(g) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16449 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–83–AD; Amendment 39–10615; AD 98–13–24]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes, that currently requires a revision to the Airplane Flight Manual (AFM) to prohibit the use of mach trim and to add speed restrictions if the autopilot is disengaged or inoperative. That AD also requires installation of an associated placard. This amendment adds requirements for replacement of the horizontal stabilizer trim control unit (HSTCU) with a new HSTCU, and reactivation of the mach trim engage/disengage switch/light (if deactivated). Accomplishment of these actions terminates the requirements of the existing AD. This amendment also limits the applicability of the existing AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent deficiencies of the HSTCU, which could result in a nose-up trim runaway when a single component in the mach trim circuit fails.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, 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) 256–7506; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–13–04, amendment 39–9325 (60 FR 38668, July 28, 1995), which is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes, was published in the **Federal Register** on April 14, 1998 (63 FR 18160). The action proposed to continue to require a revision to the AFM to prohibit the use of mach trim and to add speed restrictions if the autopilot is disengaged or inoperative, and to require installation of an associated placard. The action proposed to add requirements for replacement of the horizontal stabilizer trim control unit (HSTCU) with a new HSTCU, and reactivation of the mach trim engage/disengage switch/light (if deactivated). Accomplishment of these actions would terminate the requirements of the existing AD. That AD also proposed to limit the applicability of the existing AD.

Comments

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

Corrections to the Proposal

In paragraph (b) of the proposed rule, the FAA inadvertently referenced Bombardier Service Bulletin S.B. 601R–27–053, dated May 27, 1996; and Revision A, dated August 26, 1996; for accomplishment of the proposed actions. Paragraph (b) of this final rule has been revised to reference only Bombardier Service Bulletin S.B. 601R–27–053, Revision B, dated February 21, 1997. In addition, NOTE 3 has been added to reference the original issue and Revision A of the service bulletin as acceptable means of compliance for operators that have accomplished the applicable actions prior to the issuance of this AD.

The FAA has become aware of a typographical error that appeared in paragraph (d)(2) of the proposal. The AD

number referenced in that paragraph appeared incorrectly as AD 93–13–04. Paragraph (d)(2) of this final rule has been revised to correctly specify that AD number as AD 95–13–04.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 54 Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 95–13–04, and retained in this AD, 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 currently required actions on U.S. operators is estimated to be $6,480, or $120 per airplane.

The new actions that are required by this new AD will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $9,720, or $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9325 (60 FR 38668, July 28, 1995), and by adding a new airworthiness directive (AD), amendment 39–10615, to read as follows:

98–13–24 Bombardier, Inc. (Formerly Canadair): Amendment 39–10615. Docket 97–NM–83–AD. Supersedes AD 95–13–04, Amendment 39–9325.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) airplanes, serial numbers 7003 through 7112 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d)(1) 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 deficiencies of the horizontal stabilizer trim control unit (HSTCU), which could result in a nose-up trim runaway when a single component in the mach trim circuit fails, accomplish the following:

Restatement of Requirements of AD 95–13–04

(a) Within 24 hours after August 14, 1995 (the effective date of AD 95–13–04, amendment 39–9325), accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Install a placard adjacent to the primary flight display next to the airspeed limitation placard, to read:

''USE OF MACH TRIM IS PROHIBITED. IF THE AUTOPILOT IS DISENGAGED OR INOPERATIVE, RESTRICT SPEED TO 250 KIAS OR 0.7 MACH.''

(2) Revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to include the following information. The requirements of this paragraph may be accomplished by inserting a copy of this AD, or Canadair Regional Jet Temporary Revision No. TR RJ/43, into the AFM.

''USE OF MACH TRIM IS PROHIBITED. IF THE AUTOPILOT IS DISENGAGED OR INOPERATIVE, RESTRICT SPEED TO 250 KIAS OR 0.7 MACH.''

Note 2: When the temporary revision has been incorporated in the general revisions of the AFM, the general revisions may be inserted in the AFM, provided the information contained in the general revision is identical to that specified in Canadair Regional Jet Temporary Revision No. TR RJ/43.

(3) Revise the Limitations section of the FAA-approved AFM to include the following information. The requirements of this paragraph may be accomplished by inserting a copy of this AD into the AFM.

''Prior to the accomplishment of Bombardier Alert Service Bulletin S.B. A601R–27–054, dated June 12, 1995, when the Mach trim system is disengaged, the ''MACH TRIM'' caution message will be displayed on the Engine Indication and Crew Alerting System (EICAS), and the Mach trim engage/disengage switch ''INOP'' legend will be illuminated. The EICAS message may be scrolled out of view prior to takeoff, but the switch ''INOP'' light will remain illuminated.''

New Requirements of This AD

(b) Within 18 months after the effective date of this AD, replace the HSTCU with a new HSTCU having part number 601R92301–9, and reactivate the mach trim switch/light (if deactivated), in accordance with Bombardier Service Bulletin S.B. 601R–27–053, Revision B, dated February 21, 1997. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (a) of this AD; after the modification has been accomplished, the previously required AFM limitation may be removed.

Note 3: Accomplishment of paragraph (b) of this AD, prior to the effective date of this AD, in accordance with Bombardier Service Bulletin S.B. 601R–27–053, dated May 27, 1996; or Revision A, dated August 26, 1996; is considered acceptable for compliance with the applicable actions specified in this amendment.

(c) As of the effective date of this AD, no person shall install on any airplane any

HSTCU having part number 601R92301–5, 601R92301–7, or 601R92301–951.

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

(d)(2) Alternative methods of compliance approved previously in accordance with AD 95–13–04, amendment 39–9325, are approved as alternative methods of compliance with this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

(f) The actions shall be done in accordance with Bombardier Service Bulletin S.B. 601R–27–053, Revision B, dated February 21, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. Copies may be inspected 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; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF–95–08R2, dated July 23, 1996.

(g) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16448 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–78–AD; Amendment 39–10614; AD 98–13–23]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300–600 series airplanes, that requires inspections to detect corrosion and cracking of the lower horizontal stabilizer cutout longeron, the corner fitting, the skin strap, and the outer skin; and repair, if necessary. This amendment is prompted by cracking found at the lower corner of the horizontal stabilizer cutout longeron during a full scale fatigue test. The actions specified by this AD are intended to prevent such cracking, which could result in reduced structural integrity of the horizontal-stabilizer cutout longeron.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300–600 series airplanes was published in the **Federal Register** on December 12, 1995 (60 FR 63665). That action proposed to require repetitive visual and eddy current inspections to detect corrosion and fatigue cracking of the lower horizontal stabilizer cutout longeron, the corner fitting, the skin strap, and the skin between FR87 and FR89 and between STGR24 and STGR27, left-hand and right-hand. That action also proposed to require repetitive rotating probe inspections to detect cracks in the fastener holes at the same locations; and repair or certain follow-on actions, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter has no objection to the proposed rule.

Request to Revise Compliance Time to Permit "Adjustment of Range"

One commenter, the manufacturer, requests that the compliance times for the inspection threshold and the repetitive intervals proposed be revised to follow the recommendations of the Airbus service bulletin specified in the proposed rule. That service bulletin specifies that inspection thresholds and intervals may be adjusted based on certain average flight operations of the airplane. The commenter states that this approach was approved by the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, in its approval of the service bulletin.

The FAA does not concur that the compliance times should be revised. As explained in the proposal, the FAA has determined that such adjustments may not address the unsafe condition in a timely manner. In developing appropriate compliance times for the proposed rule, the FAA considered not only the manufacturer's recommendation, but the safety implications involved with cracking of the horizontal stabilizer cutout longeron and the number of landings that had been accumulated when cracking was detected. Therefore, this AD does not permit such adjustments, and no change to the compliance times of the final rule has been made. However, operators may request approval of an adjustment of the compliance time under the provisions of paragraph (f) of this AD, provided that such adjustment provides an acceptable level of safety.

Remove Touch-and-Go Landings From the Total Number of Landings

This same commenter requests that touch-and-go landings not be included in calculating the total number of

airplane landings. The commenter points out that most of the relevant fatigue parameters for touch-and-go flights are less significant than for conditions of normal flight. Further, the commenter states that including touch-and-go's in the total landing count for an individual airplane is too conservative, considering the high penalty of counting each touch-and-go.

The FAA does not concur. Fatigue cracking has been found at the lower corner of the horizontal stabilizer cutout longeron. Since fatigue cracking in that area is aggravated by landing, the FAA finds that all touch-and-go landings must be counted in determining the total number of landings between consecutive inspections.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 2 Airbus Model A300–600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 268 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $32,160, or $16,080 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 adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–23 Airbus Industrie: Amendment 39–10614. Docket 95–NM–78–AD.

Applicability: Model A300–600 series airplanes on which Airbus Modification No. 6146 has not been installed, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 use the authority provided in paragraph (f) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the horizontal stabilizer cutout longeron due to fatigue cracking, accomplish the following:

(a) Prior to the accumulation of 18,000 total landings, or within 2,000 landings after the effective date of this AD, whichever occurs later: Perform a visual and an eddy current inspection to detect cracks and/or corrosion of Areas 1 and 2 of the lower horizontal stabilizer cutout longeron, as defined in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995. Perform the inspections in accordance with the service bulletin.

(b) Perform a visual and an eddy current inspection to detect cracks and/or corrosion of Area 3 of the lower horizontal stabilizer cutout longeron, as defined in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995. Perform these inspections in accordance with the service bulletin, at the later of the times specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Prior to the accumulation of 24,000 total landings, but not before the accumulation of 18,000 total landings; or

(2) Prior to the accumulation of 2,000 landings after the effective date of this AD.

(c) If no cracking is detected during any inspection required by this AD: Prior to further flight, cold work and ream the vacated fastener holes, in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995; and perform the requirements of paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For airplanes on which no cracking is found in Area 1 or 2: Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 6,000 flight cycles.

(2) For airplanes on which no cracking is found in Area 3: Perform the various follow-on actions in accordance with the service bulletin. (The follow-on actions include installing a new corner fitting, installing a new longeron, and performing a cold working procedure.) After accomplishment of these follow-on actions, no further action is required by this AD.

(d) If any cracking is detected during any inspection required by this AD, perform the requirements of paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) If any cracking is found in Area 1 or 3 that is within the limits specified in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995: Prior to further flight, repair in accordance with the service bulletin.

(2) If any cracking is found in Area 2, or if any cracking is found in any area and that cracking is beyond the limits described in Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(e) If any corrosion is detected during any inspection required by this AD, prior to further flight, repair the corrosion in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995.

(f) 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 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 Manager, International Branch, ANM–116.

(g) 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.

(h) Except as provided by paragraph (d)(2) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–53–6042, Revision 1, dated February 20, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 94–269–171(B)R1, dated March 29, 1995.

(i) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16472 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–15–AD; Amendment 39–10612; AD 98–13–21]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A Olympus 593 Series Turbojet Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A Olympus 593 series turbojet engines. This action requires initial and repetitive visual inspections of the low pressure (LP) shaft signal system for cable wear and refurbishment of the LP shaft signal system at when the cable is found frayed, or at every engine shop visit, whichever occurs first. This amendment is prompted by reports of frayed rear cables in the LP shaft signal system. The actions specified in this AD are intended to prevent LP shaft signal system failure, which could result in an LP turbine overspeed, burst, uncontained engine failure, and damage to the aircraft in the event of a LP shaft failure.

DATES: Effective July 10, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 10, 1998.

Comments for inclusion in the Rules Docket must be received on or before August 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–15–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01–17–979–1234, fax 01–17–979–7575. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Rolls-Royce Limited (R–R), Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610–14–28 turbojet engines. The CAA advises that they have received reports of frayed rear cables in the low pressure (LP) shaft signal system. The LP shaft signal system prevents the LP turbine disk from bursting in the event of LP shaft failure by cutting off the fuel when excess twist is detected in the shaft. The rear cable activates the fuel shut-off valve. This condition, if not corrected, could result in LP shaft signal system failure, which could result in an LP turbine overspeed, burst, uncontained engine failure, and damage to the aircraft in the event of a LP shaft failure.

There are currently no affected engines operated on aircraft of U.S. registry. This AD, then, is necessary to require accomplishment of the required actions for engines installed on aircraft currently of foreign registry that may someday be imported into the U.S or which may be operated in U.S. airspace. Accordingly, the FAA has determined that notice and prior opportunity for comment are unnecessary and good cause exists for making this amendment effective in less than 30 days.

R–R has issued Service Bulletin (SB) No. OL.593–76–9039–71, Revision 2, dated July 23, 1997, that specifies procedures for visual inspection of the LP shaft signal system for cable wear and refurbishment of the LP shaft signal system. The CAA classified this SB as mandatory and issued AD 009–09–97 in order to assure the airworthiness of these engines in the UK.

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

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, this AD requires initial and repetitive visual inspections of the LP shaft signal system for cable wear and refurbishment of the LP shaft signal system when the cable is found frayed, or at every engine shop visit, whichever occurs first. The actions would be required to be accomplished in accordance with the SB described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not

preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–15–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–21 Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A: Amendment 39–10612. Docket 98–ANE–15–AD.

Applicability: Rolls-Royce Limited (R–R), Aero Division-Bristol, S.N.E.C.M.A. Olympus 593 Mk. 610–14–28 turbojet engines, installed on but not limited to British Aerospace/Aerospatiale Concorde series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 prevent low pressure (LP) shaft signal system failure, which could result in an LP turbine overspeed, burst, uncontained engine failure, and damage to the aircraft in the event of a LP shaft failure, accomplish the following:

(a) Perform initial and repetitive visual inspections of the LP shaft signal system rear cable for wear, and refurbish the LP shaft signal system, if necessary, in accordance with R–R Service Bulletin (SB) No. OL.593–76–9039–71, Revision 2, dated July 23, 1997, as follows:

(1) Within 30 cycles in service after the effective date of this AD, perform the initial in-service inspection.

(2) Thereafter, inspect at intervals not to exceed 800 hours time in service (TIS) since last inspection or refurbishment, whichever occurs first.

(3) If rear cable wear is detected beyond the limits described in the SB, refurbish the LP shaft signal system.

Note 2: Guidance on performing the initial in-service inspection can be found in the Maintenance Manual (76–21–01, 76–21–02), and guidance on performing a refurbishment of the LP shaft signal system can be found in the Overhaul Manual.

(b) Refurbish the LP shaft signal system as follows:

(1) Perform the initial refurbishment at the next engine shop visit after the effective date of this AD.

(2) Thereafter, refurbish at intervals not to exceed each engine shop visit, or 200 hours TIS since last refurbishment, whichever occurs later.

(c) For the purpose of this AD, an engine shop visit is defined as an engine entering the shop for work in accordance with the refurbishment or repair workscope. A maintenance related task would not be considered a shop visit.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(f) The actions required by this AD shall be performed in accordance with the following R–R SB:

Document No.	Pages	Revision	Date
OL.593–76–9039–71 ..... Total pages: 5.	1–5	2	July 23, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce, PO Box 3, Filton, Bristol BS12 7QE, England; telephone 01-17–979–1234, fax 01–17–979–7575. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on July 10, 1998.

Issued in Burlington, Massachusetts, on June 12, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–16467 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–257–AD; Amendment 39–10624; AD 98–13–33]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300, A300–600, and A310 series airplanes, that requires repetitive tests to detect desynchronization of the rudder servo actuators, and adjustment or replacement of the spring rods of the rudder servo actuators, if necessary. For certain airplanes, this AD also requires repetitive inspections to detect cracking of the rudder attachments, and repair, if necessary; or modification of the rudder attachments. 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 desynchronization of the rudder servo actuators, which could result in reduced structural integrity of the rudder attachments and reduced controllability of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300, A300–600, and A310 series airplanes was published in the **Federal Register** on March 6, 1998 (63 FR 11169). That action proposed to require repetitive tests to detect desynchronization of the rudder servo actuators, and adjustment or replacement of the spring rods of the rudder servo actuators, if necessary. For certain airplanes, this AD also requires repetitive inspections to detect cracking of the rudder attachments, and repair, if necessary; or modification of the rudder attachments.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Revise the Cost Information

The Air Transport Association (ATA) of America, on behalf of one of its members, requests that the cost estimate presented in the proposal be revised. The ATA states that the data contained in the proposal does not take into consideration the costs required for actions that may be required as a result of certain inspection findings.

The FAA does not concur that the cost estimate information should be revised. The economic analysis of the AD is limited only to the cost of actions that are actually required by the rule. It does not consider the costs of ''on condition'' actions, such as adjustments or replacement of parts if a discrepancy is detected during a required inspection. Such ''on condition'' actions would be required to be accomplished—regardless of AD direction—in order to correct an identified unsafe condition, and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 103 Airbus Model A300, A300–600, and A310 series airplanes of U.S. registry will be affected by this proposed AD, that it will take approximately 1 work hour per airplane to accomplish the proposed test, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $60 per airplane, per test cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–33 Airbus Industrie: Amendment 39–10624. Docket 97–NM–257–AD.

Applicability: All Model A300, A300–600, and A310 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 (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 desynchronization of the rudder servo actuators, which could result in reduced structural integrity of the rudder attachments and reduced controllability of the airplane, accomplish the following:

(a) Prior to accumulation of 1,300 total flight hours, or within 500 flight hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,300 flight hours: Perform a test to detect desynchronization of the rudder servo actuators in accordance with Airbus Service Bulletin A300–27–0188, Revision 2, dated October 1, 1997 (for Model A300 series airplanes); A300–27–6036, Revision 2, dated October 1, 1997 (for Model A300–600 series airplanes); or A310–27–2082, Revision 2, dated October 1, 1997 (for Model A310 series airplanes); as applicable. If any desynchronization (rudder movement) is detected, prior to further flight, either adjust or replace, as applicable, the spring rod of the affected rudder servo actuator in accordance with the applicable service bulletin.

Note 2: A test to detect desynchronization of the rudder servo actuators, if accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–27–0188, dated October 24, 1996, or Revision 1, dated November 5, 1996 (for Model A300 series airplanes); A300–27–6036, dated October 24, 1996, or Revision 1, dated November 5, 1996 (for Model A300–600 series airplanes); or A310–27–2082, dated October 24, 1996, or Revision 1, dated November 5, 1996 (for Model A310 series airplanes); is considered acceptable for compliance with the initial test required by paragraph (a) of this AD.

(b) Except as provided by paragraph (c) of this AD, if any desynchronization (rudder movement) greater than the limit specified in Paragraph B of the Accomplishment Instructions of the applicable service bulletin is detected during any test required by paragraph (a), prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with Airbus Service Bulletin A300–55–0044, dated October 22, 1996 (for Model A300 series airplanes); A300–55–6023, dated October 22, 1996 (for Model A300–600 series airplanes); or A310–55–2026, dated October 22, 1996 (for Model A310 series airplanes); as applicable.

(1) Conduct a visual inspection, high frequency eddy current inspection, or ultrasonic inspection, as applicable, to detect cracking of the rudder attachments; and repeat the inspection thereafter, as applicable, at the intervals specified in the applicable service bulletin. Or

(2) Modify the rudder attachments to cold expand the rivet holes.

(c) If any crack is found during any inspection or modification required by paragraph (b) of this AD, and the applicable service bulletin specifies to contact Airbus for an appropriate action: Prior to further flight, repair the affected structure in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or in accordance with a method approved by the Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France.

(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 requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(f) Except as provided in paragraph (c) of this AD, the repetitive inspections and repair shall be done in accordance with Airbus Service Bulletin A300–55–0044, dated October 22, 1996; Airbus Service Bulletin A300–55–6023, dated October 22, 1996; or Airbus Service Bulletin A310–55–2026, dated October 22, 1996, as applicable. Testing for desynchronization shall be done in accordance with Airbus Service Bulletin A300–27–0188, Revision 2, dated October 1, 1997; Airbus Service Bulletin A300–27–6036, Revision 2, dated October 1, 1997; or Airbus Service Bulletin A310–27–2082, Revision 2, dated October 1, 1997, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 96–242–208(B) R2, dated November 19, 1997.

(g) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 16, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16491 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–329–AD; Amendment 39–10623; AD 98–13–32]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0100 series airplanes, that requires interim inspections to detect discrepancies of the main fitting subassembly of the main landing gear, and follow-on corrective actions, if necessary. This amendment also requires a one-time inspection to detect discrepancies of the fitting, repair of the fitting, if necessary, and application of new surface protection on the fitting, which would terminate the interim inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent cracking of the main fitting subassembly of the main landing gear, which could result in collapse of the main landing gear.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands; or from Messier-Dowty Ltd., Cage: K0654, Cheltenham Road, Gloucester, GL2 9QH, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes was published in the **Federal Register** on April 2, 1998 (63 FR 16165). That action proposed to require interim inspections to detect discrepancies of the main fitting subassembly of the main landing gear, and follow-on corrective actions, if necessary. That action also proposed to require a one-time inspection to detect discrepancies of the fitting, repair of the fitting, if necessary, and application of new surface protection on the fitting. Accomplishment of these actions would terminate the interim inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request to Cite Earlier Revision of Service Information

One commenter requests that provisions be added to allow accomplishment of inspection and rework required by paragraph (b) of the proposed AD in accordance with Revision 1 of Messier-Dowty Service Bulletin F100–32–86 in addition to Revision 2, as proposed in the NPRM. The FAA concurs. Since Revision 2 of the service bulletin contains no substantive differences from Revision 1, the FAA has determined that the actions required by paragraph (b) of this AD may be accomplished in accordance with Messier-Dowty Service Bulletin F100–32–86, including Appendix A and Appendix B; all Revision 1, all dated November 1, 1996. A ''NOTE'' has been added to the final rule to give credit to operators who may have previously accomplished the required actions in accordance with the earlier revision of the service bulletin.

Explanation of Changes Made to Proposal

In the proposal, the FAA inadvertently omitted references to Appendices A and B, both Revision 1, both dated November 1, 1996, of Messier-Dowty Service Bulletin F100–32–86, Revision 2, dated July 3, 1997. Therefore, the FAA has revised the final rule accordingly.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 127 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required interim inspections. Based on an average labor rate of $60 per work hour, the cost impact of the required interim inspections on U.S. operators is estimated to be $15,240, or $120 per airplane, per inspection cycle.

It will take approximately 14 work hours per airplane to accomplish the required terminating actions. Based on an average labor rate of $60 per work hour the cost impact of the required terminating actions on U.S. operators is estimated to be $106,680, or $840 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–32 Fokker: Amendment 39–10623. Docket 97–NM–329–AD.

Applicability: Model F.28 Mark 0100 series airplanes, equipped with Messier-Dowty main landing gear units having the part numbers and serial numbers specified in Messier-Dowty Service Bulletin F100–32–86, Revision 2, dated July 3, 1997, including Appendix A, Revision 1, dated November 1, 1996, and Appendix B, Revision 1, dated November 1, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the main fitting subassembly of the main landing gear, which could result in collapse of the main landing gear, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a visual and an eddy current inspection to detect discrepancies (paint damage, corrosion or cracking) of the main fitting subassembly of the main landing gear, in accordance with Appendix B, Revision 1, dated November 1, 1996, of Messier-Dowty Service Bulletin F100–32–86, Revision 2, dated July 3, 1997.

(1) If no discrepancy is detected, or if any discrepancy is detected that is within the limits specified in Appendix B of the service bulletin: Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 60 days.

(2) If any discrepancy is detected that is outside the limits specified in Appendix B of the service bulletin: Prior to further flight, accomplish the requirements of paragraph (b) of this AD.

(b) Within 6 months after the effective date of this AD, perform a one-time eddy current inspection and a one-time visual inspection to detect discrepancies (paint damage, corrosion, or cracking) of the main fitting subassembly of the main landing gear, in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin F100–32–86, Revision 2, dated July 3, 1997, including Appendix A, Revision 1, dated November 1, 1996, and Appendix B, Revision 1, dated November 1, 1996. Accomplishment of the actions required by this paragraph constitutes terminating action for the requirements of this AD.

(1) If no discrepancy is detected, prior to further flight, apply a protective treatment to the main fittings in accordance with the service bulletin.

(2) If any discrepancy is detected that can be repaired within the limits specified in the service bulletin, prior to further flight, repair the discrepancy, and apply a protective treatment to the main fittings, in accordance with the service bulletin.

(3) If any discrepancy is detected that cannot be repaired within the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

Note 2: Accomplishment of the terminating actions required by paragraph (b) of this AD in accordance with Messier-Dowty Service Bulletin F100–32–86, including Appendix A and Appendix B; all Revision 1, all dated November 1, 1996; prior to the effective date of this AD, is acceptable for compliance with the requirements of this paragraph.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(e) Except as provided by paragraph (b)(3) of this AD, the actions shall be done in accordance with Messier-Dowty Service Bulletin F100–32–86, Revision 2, dated July 3, 1997, including Appendix A, Revision 1, dated November 1, 1996, and Appendix B, Revision 1, dated November 1, 1996, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 5, 6	2	July 3, 1997.
2–4, 7–17	1	November 1, 1996.
Appendix A		
1–3	1	November 1, 1996.
Appendix B		
1–5	1	November 1, 1996.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands; or from Messier-Dowty Ltd., Cage: K0654, Cheltenham Road, Gloucester, GL2 9QH, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1996–133/2(A), dated January 31, 1997.

(f) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 16, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16498 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–145–AD; Amendment 39–10622; AD 98–13–31]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires repetitive visual inspections to detect discrepancies of the bushing installation of the aileron actuation fitting, and eventual installation of staked bushings in the fitting. Accomplishment of such installation terminates the repetitive inspections. This amendment also provides for an optional temporary preventive action, which, if accomplished, would allow the repetitive inspection intervals to be extended until the terminating action is accomplished. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the fitting lugs due to vibration caused by loose bushings in the fittings, and consequent reduced controllability of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on December 11, 1997 (62 FR 65231). That action proposed to require repetitive visual inspections to detect discrepancies of the bushing installation of the aileron actuation fitting, and eventual installation of staked bushings in the fitting. Accomplishment of such installation terminates the repetitive inspections. That action also proposed to provide for an optional temporary preventive action, which, if accomplished, allows the repetitive inspection intervals to be extended until the terminating action is accomplished.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter, the manufacturer, requests that the repair specified in paragraph (c) of the proposed rule be accomplished in accordance with Saab Service Bulletin 2000–57–014 or the commenter's Repair Statements. The commenter states that its Repair Statements are approved based on privileges granted by Luftfartsverket (LFV), which is the airworthiness authority for Sweden, as part of the production certificate for Model SAAB 2000 series airplanes.

The FAA concurs partially. The FAA does concur that it is appropriate to allow repairs in accordance with the service bulletin, since no repair is specified in the service bulletin for the condition specified in paragraph (c) of this AD. However, 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 a repair approved by the FAA, the LFV, or the LFV's delegated agent is acceptable for compliance with the AD.

Additionally, the FAA has included the phrase ''prior to further flight'' in paragraph (c) of the final rule. This phrase was omitted inadvertently from the proposal.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 1 airplane of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the required inspection on the single U.S. operator is estimated to be $60 per airplane, per inspection cycle.

The FAA estimates that it will take approximately 4 work hours to accomplish the required installation, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the required installation on the single U.S. operator is estimated to be $240 per airplane.

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

Should an operator elect to accomplish the optional temporary preventive action provided by this AD, it would take approximately 1 work hour to accomplish it, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the optional temporary preventive action would be $60 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–31 SAAB Aircraft: Amendment 39–10622. Docket 97-NM–145-AD.

Applicability: Model SAAB 2000 series airplanes having serial numbers -002 through -023 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 failure of the fitting lugs, due to vibration caused by loose bushings in the aileron actuation fittings, which could result in reduced controllability of the airplane; accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, inspect the bushing installations of the left-hand and right-hand aileron actuation fittings to detect any discrepancies, in accordance with Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997.

(1) If no discrepancy is found, repeat the inspection thereafter at intervals not to exceed 300 flight hours until the requirements of paragraph (b) of this AD have been accomplished. Accomplishment of the

temporary preventive action specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin allows the repetitive inspections to be accomplished at intervals of 600 flight hours until the requirements of paragraph (b) of this AD have been accomplished.

(2) If any discrepancy is found, prior to further flight, accomplish the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this AD in accordance with the service bulletin.

(i) Except as specified in paragraph (c), accomplish the installation required by paragraph (b) of this AD. Accomplishment of this installation constitutes terminating action for the requirements of this AD. Or

(ii) Accomplish the temporary preventive action specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 600 flight hours until the requirements of paragraph (b) of this AD have been accomplished.

(b) Except as specified in paragraph (c) of this AD, within 3,000 flight hours after the effective date of this AD, install the new staked bushings in the aileron actuation fitting in accordance with Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997. Accomplishment of this installation terminates the requirements of this AD.

(c) If, during the accomplishment of the installation required by paragraph (a)(2)(i) or paragraph (b) of this AD, the diameter of the small hole of the fitting lug is found to be outside the limits specified in Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997, prior to further flight, repair it in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (or its delegated agent).

(d) As of the effective date of this AD, no person shall install on any airplane an aileron having part number, 7357995–843 (left-hand) or 7357995–844 (right-hand), unless it has been modified in accordance with paragraph (b) of this AD.

(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. 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.

(g) Except as provided in paragraph (c) of this AD, the actions shall be done in accordance with Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive (SAD) No. 1–102R1, dated November 8, 1996.

(h) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 16, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16499 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–203–AD; Amendment 39–10626; AD 98–13–35]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that requires repetitive high frequency eddy current inspections of certain areas of the fuselage to detect cracks of the skin and/or longeron, and various follow-on actions. This amendment also requires installation of a preventative modification, which terminates the repetitive inspections. This amendment is prompted by reports indicating that, due to material fatigue caused by installation preload and cabin pressurization cycles, fatigue cracks were found in the skin and longerons of the fuselage. The actions specified by this AD are intended to prevent such fatigue cracks, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5237; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes was published in the **Federal Register** on March 7, 1997 (62 FR 10492). That action proposed to require repetitive high frequency eddy current (HFEC) inspections of the external areas of the fuselage skin to detect cracks of the skin and/or longeron between stations Y=160.000 and Y=218.000, and various follow-on actions. That action also proposed to require the installation of a preventative modification, which would constitute terminating action for the repetitive inspection requirements.

Explanation of Changes Made to Proposed AD

Since issuance of the NPRM, the FAA has received a report indicating that, during inspection of a McDonnell Douglas Model DC–9–32 series airplane, fatigue cracking was found in additional structure that is within the subject area of the proposed AD (i.e., between stations Y=160.000 and Y=218.000). The additional area is approximately 10 inches by 6 inches and is directly between areas subject to the proposed inspection required by this AD. Because

of the small size of the additional area and its location, the FAA finds that adding this area to the existing requirements of the final rule will not increase significantly the inspection burden on operators. Therefore, in addition to the area between stations Y=160.000 and Y=218.000 (as specified in McDonnell Douglas DC–9 Service Bulletin 53–235, which was referenced in the proposed AD as the appropriate source of service information), the FAA has determined that the repetitive HFEC inspections also must be conducted in the entire area between stations Y=160.000 and Y=180.000, longeron 4 left and longeron 5 left. The FAA has revised paragraph (a) of the final rule accordingly, and has added one work hour to the cost impact information below, to account for the additional time necessary to accomplish the required inspection. In addition, McDonnell Douglas is planning on revising the referenced service bulletin to coincide with the requirements of this final rule.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters support the proposed rule.

Request to Allow Credit for Inspections Performed Previously

One commenter requests that the compliance time for paragraph (a) of the proposed AD be revised to allow credit for internal visual inspections performed previously in accordance with Task C46–53300 of the Corrosion Prevention and Control Program (CPCP) [required by AD 92–22–08 R1, amendment 39–8591 (58 FR 32281, June 9, 1993)]. The commenter states that, since the primary failure mode is a cracked longeron or shear clip, the internal visual inspection will have a crack detection threshold lower than that of the initial external eddy current inspection specified in paragraph (a) of the proposed AD. The FAA concurs. The FAA finds that the structure and area specified in this AD are identical to the structure and area being inspected in accordance with the CPCP AD 92–22–08 R1. The FAA has determined that, for airplanes that have been inspected previously in accordance with Task C46–53300 of the CPCP (required by AD 92–22–08 R1) within 6,000 landings prior to the effective date of this AD, the initial HFEC inspection required by this AD shall be accomplished within 12,000 landings. The FAA finds that a 12,000-landing compliance time represents an appropriate interval of time allowable for these affected airplanes to continue to operate without compromising safety. The FAA has revised paragraph (a) of the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,728 McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,152 airplanes of U.S. registry will be affected by this AD.

It will take approximately 17 work hours per airplane to accomplish the required HFEC inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the HFEC inspection required by this AD on U.S. operators is estimated to be $1,175,040, or $1,020 per airplane, per inspection cycle.

It will take approximately 89 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. The cost of required parts will range from $13,771 to $15,292 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be between $22,015,872 ($19,111 per airplane) and $23,768,064 ($20,632 per airplane).

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–35 McDonnell Douglas: Amendment 39–10626. Docket 96–NM–203–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), –82 (MD–82), –83 (MD–83), and –87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993; 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 (f) 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 cracks in the skin and longerons of the fuselage, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) inspection of the external areas of the fuselage to detect cracks of the skin and/or longeron between stations Y=160.000 and Y=218.000, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993; and of the entire area between stations Y=160.000 and Y=180.000, longeron 4 left and longeron 5 left. Perform the inspection at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

Note 2: Where there are differences between this AD and the referenced service bulletin, the AD prevails.

(1) For airplanes other than those identified in paragraph (a)(2) of this AD: Inspect prior to the accumulation of 30,000 total landings, or within 8,000 landings after the effective date of this AD, whichever occurs later.

(2) For airplanes that have been inspected previously in accordance with Task C46–53300 of the Corrosion Prevention and Control Program (CPCP), as required by AD 92–22–8–R1, amendment 39–8591, within 6,000 flight cycles prior to the effective date of this AD: Inspect within 12,000 landings after the effective date of this AD.

(b) *Condition 1 (No Cracks).* If no crack is detected during any inspection required by this AD, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993.

(1) *Condition 1, Option I (Repetitive Inspection).* Repeat the HFEC inspection required by paragraph (a) of this AD, and the aided visual inspection specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin, at intervals not to exceed 10,000 landings.

(2) *Condition 1, Option II (Terminating Action Modification).* Accomplish the preventative modification installation of clips and doublers between stations Y=160.000 and Y=218.000, in accordance with the service bulletin. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of this AD.

(c) *Condition 2 (Skin Cracks).* If any skin crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(d) *Condition 3 (Longeron Cracks).* If any longeron crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(e) Prior to the accumulation of 100,000 total landings, or within 4 years after the effective date of this AD, whichever occurs later, accomplish the preventative modification specified in paragraph 2.J. of the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

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

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

(g) 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.

(h) The actions shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 17, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16695 Filed 6–24–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–212–AD; Amendment 39–10627; AD 98–13–36]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes, that requires repetitive operational tests of the pitch trim system of the elevator trim-tab of the flight control unit to ensure that the system operates correctly, and repair if necessary. This amendment is prompted by a report of uncommanded movement of the right-hand elevator trim-tab to a maximum deflection position, which was apparently due to a failure in the aircraft harness and a fault in the pitch trim synchronizer. The actions specified by this AD are intended to prevent such uncommanded movement of the elevator trim-tab, which could lead to structural overload of the horizontal stabilizers at speeds above 180 knots, and consequent reduced controllability of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to

include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes was published in the Federal Register on May 9, 1997 (62 FR 25566). That action proposed to require repetitive operational tests of the pitch trim system of the elevator trim-tab of the flight control unit to ensure that the system operates correctly, and repair, if necessary.

Consideration of Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters support the proposed AD.

Requests to Withdraw the AD

Two commenters suggest that the proposed AD is no longer required because the proposed action already is being performed by the operators in accordance with their usual maintenance procedures. One commenter states that it is redundant to issue an AD that would require the operational tests to be performed when those checks are already a mandatory task in its maintenance program. The manufacturer states that procedures for these tests have been included in the Saab Maintenance Review Board (MRB) Document (task 27–3210), which specifies repetitive checks every 150 flight hours. In addition, commenters state that Saab Service Bulletin 340–27–079, dated December 22, 1995, which describes procedures for the tests required by the proposed AD, has been canceled.

The FAA acknowledges that the operator's maintenance program and manufacturer's MRB document may include the same information as the proposed AD and service bulletin. However, the FAA has determined that such programs and documents are not the appropriate means to address the unsafe condition; an airworthiness directive is issued to address an unsafe condition. In addition, the FAA has determined that allowing each operator to determine whether and how often operational tests should be conducted will not ensure an acceptable level of safety, and that allowing this degree of operator discretion is not appropriate in this case. Therefore, this AD is necessary to ensure that operators accomplish operational tests in a common manner and at common intervals to ensure compliance and public safety.

Request to Limit the Applicability of the AD

The manufacturer states that, on all Saab Model SAAB 2000 series airplanes, the mechanical elevator control system (MECS) has been replaced by the powered elevator control system (PECS). For this reason, the manufacturer maintains that operational tests for the pitch trim system on these airplanes are no longer required.

The FAA infers that the manufacturer requests that the FAA limit the applicability of the proposed AD to exclude Model SAAB 2000 series airplanes equipped with PECS. The FAA concurs with this request and agrees that, for Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes equipped with PECS, the actions required by the proposed AD are no longer required. Therefore, the FAA has removed such airplanes from the applicability of the final rule.

Requests to Incorporate the Manufacturer's Repair Instructions Into the Final Rule

Two commenters request that the proposed AD be revised to incorporate the manufacturer's repair instructions into the final rule. In support of these requests, the manufacturer has provided repair instructions in its comments. The commenters state that, if a problem is encountered during an inspection, the requirement to contact the FAA for repair instructions could cause operators to incur long down times while waiting for such instructions.

Although the FAA does not concur with the requests to incorporate the manufacturer's repair instructions into the final rule, it has taken into account the commenters' concerns about potential delays in receiving repair instructions. The FAA has been advised by the manufacturer that it has developed a repair procedure to isolate the fault and has developed a repair for the elevator trim synchronizer system in the event that the operational test fails. The FAA also has been advised that this repair procedure now has been included in the Saab 340 Aircraft Maintenance Manual (AMM) 27–32–30, dated January 1, 1998. The FAA has reviewed this procedure and finds that it may be used as an acceptable means of compliance for the repair required by paragraph (a)(2) of this AD. Accordingly, the FAA has revised this final rule to include a new NOTE specifying that the repair may be accomplished in accordance with the Saab 340 AMM.

In addition, the FAA has revised paragraph (a)(2) of the final rule to specify that repairs may be accomplished in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (LFV), which is the airworthiness authority for Sweden. In light of the type of repair required to ensure that the pitch trim system operates correctly, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, such a repair approved by either the FAA or the LFV (or its delegated agent) would be acceptable for compliance with this AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Action

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

Cost Impact

The FAA estimates that 235 Model SAAB SF340A and SAAB 340B series airplanes of U.S. registry will be affected by this AD. Currently, there are no Model SAAB 2000 series airplanes of U.S. registry that would be affected by this AD. The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $14,100, or $60 per airplane, per operational test.

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

Regulatory Impact

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

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–36 SAAB Aircraft AB: Amendment 39–10627. Docket 96–NM–212–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers –004 through –159, inclusive; Model SAAB 340B series airplanes, serial numbers –160 and subsequent; and SAAB 2000 series airplanes, serial numbers –005 and –007 through –009, inclusive; equipped with a mechanical elevator control system (MECS); 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 uncommanded movement of the right-hand elevator trim-tab to a maximum deflection position, which could lead to structural overload of the horizontal stabilizers at speeds above 180 knots, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 150 hours time-in-service after the effective date of this AD, perform an operational test of the pitch trim system that moves the elevator trim-tab of the flight control unit to ensure that the system operates correctly, in accordance with Saab Service Bulletins 340–27–079 (for Model SAAB SF340A and SF340B series airplanes); or 2000–27–018 (for Model SAAB 2000 series airplanes); both dated December 22, 1995; as applicable.

(1) If no discrepancy is found, repeat the operational test of the pitch trim system thereafter at intervals not to exceed 150 hours time-in-service.

(2) If any discrepancy is found, prior to further flight, accomplish repairs in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (LFV), or its delegated agent.

Note 2: Accomplishment of the repair required by paragraph (a)(2) of this AD, in accordance with Saab 340 Aircraft Maintenance Manual 27–32–30, dated January 1, 1998, is considered acceptable for compliance with the applicable action specified in this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(d) The operational test shall be done in accordance with Saab Service Bulletin 340–27–079, dated December 22, 1995, or Saab Service Bulletin 2000–27–018, dated December 22, 1995, as applicable. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–083, Revision 1, dated January 2, 1996.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 17, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16697 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–81–AD; Amendment 39–10628; AD 98–13–37]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 and all Model A300–600 series airplanes, that requires a one-time inspection for cracking of the gantry lower flanges in the main landing gear (MLG) bay area; and repair, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct cracking of the gantry lower flanges in the MLG bay area, which could result in decompression of the airplane.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 and all Model A300–600 series airplanes series airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19684). That action proposed to require a one-time inspection for cracking of the gantry lower flanges in the main landing gear (MLG) bay area; and repair, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

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

Cost Impact

The FAA estimates that 67 airplanes of U.S. registry will be affected by this AD. It will take approximately 4 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $16,080, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–37 Airbus Industrie: Amendment 39–10628. Docket 98–NM–81–AD.

Applicability: Model A300 series airplanes on which Airbus Modification 3474 has been accomplished, and all Model A300–600 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 otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the gantry lower flanges in the main landing gear (MLG) bay area, which could result in decompression of the airplane, accomplish the following:

(a) Prior to the accumulation of 16,300 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time ultrasonic inspection for cracking of the gantry lower flanges in the MLG bay area, in accordance with Airbus All Operators Telex (AOT) 53–11, dated October 13, 1997.

(1) If any cracking is detected, prior to further flight, repair in accordance with the AOT.

(2) If no cracking is detected, no further action is required by this AD.

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

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

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

(d) The inspection and repair shall be done in accordance with Airbus All Operators Telex (AOT) 53–11, dated October 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97–372–236(B), dated December 3, 1997.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 17, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16699 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–115–AD; Amendment 39–10629; AD 98–13–38]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that requires installation of a warning placard for the fire extinguisher exhaust port located in the rear baggage bay. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent blockage of the fire extinguisher exhaust port, which could result in reduced fire protection in the rear baggage bay and consequent injury to the passengers and crewmembers.

DATES: Effective July 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes was published in the **Federal Register** on April 21, 1998 (63 FR 19688). That action proposed to require installation of a warning placard for the fire extinguisher exhaust port located in the rear baggage bay.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 57 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required installation, and that the average labor rate is $60 per work hour. Required parts cost will be minimal. Based on these figures, the cost impact of the installation required by this AD on U.S. operators is estimated to be $3,420, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–13–38 British Aerospace [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10629. Docket 98–NM–115–AD.

Applicability: Model 4101 airplanes, constructor's numbers 41004 through 41100 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent blockage of the fire extinguisher exhaust port, which could result in reduced fire protection in the rear baggage bay and consequent injury to the passengers and crewmembers, accomplish the following:

(a) Within 4 months after the effective date of this AD, install a warning placard near the fire extinguisher exhaust port in the rear baggage bay, in accordance with British Aerospace Regional Aircraft Service Bulletin J41–11–020, dated November 10, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their 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.

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

(d) The installation shall be done in accordance with British Aerospace Regional Aircraft Service Bulletin J41–11–020, dated November 10, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 015–11–97.

(e) This amendment becomes effective on July 30, 1998.

Issued in Renton, Washington, on June 17, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–16703 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 802

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Final rule with request for comments.

SUMMARY: This final rule amends the premerger notification rules that require the parties to certain mergers or acquisitions to file reports with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, and to wait a specified period of time before consummating such transactions. The reporting and waiting period requirements are intended to enable these enforcement agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation. During the nineteen years the rules have been in effect, the Federal Trade Commission, with the concurrence of the Assistant Attorney General for Antitrust, has amended the premerger notification rules several times to improve the program's effectiveness and to lessen the burden of complying with the rules. This final rule amends Rule 802.70, which exempts from the reporting requirements acquisitions of stock or assets required to be divested by an order of the Federal Trade Commission or of any Federal court in an action brought by the Commission or the Department of Justice. As amended the Rule will exempt as well divestitures pursuant to consent agreements that have been accepted by the Commission for public comment or have been filed with a court by the Commission or the Department of Justice and are subject to public comment, but are not yet final orders. These transactions are adequately reviewed for potential antitrust concerns during the approval process under the consent agreement, in which the antitrust agencies determine that the divestiture to that party does not raise antitrust concerns. The Commission has thus made this change to Section 802.70 because such acquisitions are unlikely to raise antitrust concerns.

The Commission has made this final rule without notice and comment because notice and comment would be unnecessary and the delay in implementing the rule would be contrary to the public interest. Section 802.70 already exempts from the reporting requirements transactions that satisfy divestiture requirements under Commission or Court orders in cases brought by the Commission or the Department of Justice. The amendment merely extends the exemption to transactions entered into before the relevant order has been made final. Whatever delay and cost result from the HSR reporting requirements are contrary to the public interest where the antitrust agencies already have notice of the transaction and have completed their review.

Notice and comment in this matter are unnecessary because the Commission has already exempted acquisitions pursuant to a final divestiture order, and there is no relevant difference between the two situations. The agencies in each case already have all the notice and information they would otherwise obtain under HSR. No other person has access to or interest in the information provided under HSR, and therefore no other person has an interest in ensuring a filing in these circumstances.

DATES: This final rule is effective on June 25, 1998. The Commission will, however, accept comments on the revised rule that are received on or before July 27, 1998, and may reevaluate the rule in light of those comments.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 159, Washington, D.C. 20580, and (2) the Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington DC 20530.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Deputy Assistant Director, Bureau of Competition, Room S–2115, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–2687.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–12, requires that the agency conduct an analysis of the anticipated economic impact of the proposed amendment on small businesses.

The purpose of a regulatory flexibility analysis is to ensure that the agency considers impact on small entities and examines alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 provides, however, that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. Because of the size of the transactions necessary to invoke a Hart-Scott-Rodino filing, the premerger notification rules rarely, if ever, affect small businesses. Furthermore, the amendment will merely exempt companies from Hart-Scott-Rodino reporting requirements for certain transactions. Accordingly, pursuant to the Regulatory Flexibility Act provisions of the Administrative Procedure Act, 5 U.S.C. 605(b), the Federal Trade Commission has certified that this rule will not have a significant economic impact on a substantial number of small entities. Section 603 of the Administrative Procedure Act, 5 U.S.C. 603, requiring a final regulatory flexibility analysis of these rules; is therefore, inapplicable.

Paperwork Reduction Act

The premerger notification rules and report form contain information collection requirements that have been reviewed and approved by the Office of Management and Budget under OMB Control Number 3084–0005. The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, requires agencies to submit requirements for ''collections of information'' to OMB and obtain

clearance prior to instituting them. Such collections of information include reporting, recordkeeping, or disclosure requirements contained in regulations. The proposed amendment does not impose any such requirements beyond those that have already been approved by OMB. The amendment will exempt reporting requirements for transactions that have been made pursuant to consent agreements that have been accepted by the Commission for public comment or that have been filed with a court by the Commission or the Department of Justice for public comment, but that are not yet final orders. This revision will eliminate an unnecessary burden in connection with these acquisitions and will generally provide some reduction of the Paperwork Reduction Act burden currently associated with the Rule.

Background

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by §§ 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''the act'' or ''HSR''), requires persons contemplating certain acquisitions of assets or voting securities to give advance notice to the Federal Trade Commission (hereafter referred to as ''the Commission'') and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to as ''the Assistant Attorney General''), and to wait certain designated periods before the consummation of such acquisitions. The transactions to which the advance notice requirement is applicable and the length of the waiting period required are set out respectively in subsections (a) and (b) of § 7A. This amendment to the Clayton Act did not change the standards used in determining the legality of mergers and acquisitions under the antitrust laws.

The legislative history suggests several purposes underlying the act. Congress wanted to assure that large acquisitions were subjected to meaningful scrutiny under the antitrust laws prior to consummation. To this end, Congress expressly intended to eliminate the large ''midnight merger,'' which is negotiated in secret and announced just before, or sometimes only after, the closing takes place. Congress also provided an opportunity for the Commission or the Assistant Attorney General (who are sometimes hereafter referred to collectively as the ''antitrust agencies'' or the ''enforcement agencies'') to seek a court order enjoining the completion of those transactions that the agencies deem to present significant antitrust problems. Finally, Congress sought to facilitate an effective remedy when a challenge by one of the enforcement agencies proved successful.

Thus, the act requires that the antitrust agencies receive prior notification of certain acquisitions; provides certain tools to facilitate a prompt, thorough investigation of the competitive implications of those acquisitions; and assures the enforcement agencies an opportunity to seek a preliminary injunction before the parties to an acquisition are legally free to consummate it, reducing the problem of unscrambling the assets after the transaction has taken place.

Subsection 7A(d)(1) of the act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General, in accordance with the Administrative Procedure Act, 5 U.S.C. 553, to require that the notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Subsection 7A(d)(2) of the act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General, in accordance with 5 U.S.C. 553, the authority to: (a) define the terms used in the act; (b) exempt additional classes of persons or transactions which are not likely to violate the antitrust laws from the act's notification and waiting period requirements; and (c) prescribe such other rules as may be necessary and appropriate to carry out the purposes of § 7A.

The rules are divided into three parts, which appear at 16 CFR Parts 801, 802, and 803. Part 801 defines a number of the terms used in the act and rules, and explains which acquisitions are subject to the reporting and waiting period requirements. Part 802 contains a number of exemptions from these requirements. Part 803 explains the procedures for complying with the act. The Notification and Report Form, which is completed by persons required to file notification, is an appendix to Part 803 of the rules. Changes of a substantive nature have been made in the premerger notification rules or Form on nine occasions since they were first promulgated.

The Commission recognizes that the premerger notification obligations can create delay and impose the cost of the filing fee even for acquisitions that do not raise competitive concerns, and that this delay and cost can impose burdens on buyers and sellers. The delay that occurs is the necessary consequence of preventing consummation while the antitrust agencies assess the likelihood that proposed transactions will violate the antitrust laws. The special treatment of cash tender offers in section 7A(b)(1)(b) of the Act illustrates congressional concern to avoid unnecessary disruption of the operation of the market for corporate control. *See* 122 Cong. Rec. H. 10,293 (daily ed. Sept. 16, 1976). In addition, the Commission has tried to minimize any unnecessary disruptive effect of premerger review by the design of its procedures and the speed with which it reviews proposed transactions and in a majority of transactions grants early termination of the waiting period. Moreover, whenever the Commission can determine that a class of transactions is unlikely to violate the antitrust laws, it has sought, with the concurrence of the Assistant Attorney General for Antitrust, to exempt such transactions from all notification obligations and the delay and cost inherent in premerger review.

Statement of Basis and Purpose for the Commission's Revised Premerger Notification Rules

The Commission, with the concurrence of the Assistant Attorney General, promulgates this amendment pursuant to 15 U.S.C. 18a(d).

Section 802.70 of the Rules exempts from the reporting requirements acquisitions of assets or voting securities from an entity required to divest such assets by order of the Federal Trade Commission or of any Federal Court in an action brought by the Federal Trade Commission or the Department of Justice. The agencies have recognized that there is no need for filing under HSR in these circumstances. Under existing procedures the agencies already review divestitures required by final orders. This review gives the agencies the full opportunity to weigh the competitive impact of the proposed transaction prior to consummation and to prevent the transaction if appropriate, the same goal that HSR was designed to accomplish.

Both the Commission's Rules of Practice and the Antitrust Procedures and Penalties Act require a proposed settlement to be published in the **Federal Register** for a 60-day public comment period. Proposed orders thus do not become final until at least 60 days following their acceptance by the parties and the antitrust agencies, and therefore the exemption created by section 802.70 of the Rules does not apply to any divestiture that might be made during the period between acceptance of a settlement and issuance of a final order, even if such divestiture were to an acquirer and according to a

contract that is specified in the proposed settlement.

Recently, the Commission has been shortening the time period in which divestiture is to take place and has more frequently included specific approved acquirers and reference specific divestiture agreements in proposed orders when the Commission accepts proposed orders for public comment. This trend has increased the likelihood that the divestiture transaction will occur before there is a final order requiring divestiture. In these circumstances, Rule 802.70 as written, because it applies only to final orders, does not provide an exemption. Nevertheless, the same reasons to exclude from the HSR filing requirements divestitures after the order is entered also apply in cases where the proposed order identifies the acquirer and the divestiture contract. The agencies have already had an opportunity comparable to that which HSR provides to weigh the competitive impact of proposed transaction and to approve or disapprove the transaction. There is therefore no need for a separate HSR filing.

The Federal Trade Commission believes that an acquisition of assets or voting securities pursuant to the terms of a proposed order of divestiture is unlikely to violate the antitrust laws and that exempting such acquisitions is necessary and appropriate to carry out the purposes of the act. Accordingly, the Commission has amended § 802.70 of its premerger notification rules to exempt such acquisitions from premerger reporting requirements.

The following section outlines briefly the rationale for this rulemaking. Subsequent sections discuss certain key issues concerning the Commission's authority to promulgate § 802.70, and the nature of the new rule.

Statement of the Underlying Problem

The purpose of section 7A of the Clayton Act is clear: to give the antitrust agencies an opportunity to determine whether a proposed acquisition might violate the antitrust laws and an opportunity to challenge any such transaction prior to consummation. At the same time, the program is not without cost, including the cost of filling out the form, filing fees, delaying transactions and otherwise. For transactions that do not rise significant issues under the antitrust laws these costs can be particularly burdensome. The Commission has continually reviewed the premerger notification program in an effort to increase its efficiency and decrease the burden on filing parties. This rulemaking proceeding is part of this effort.

Analysis of Proposed Revised Rule 802.70

Revised rule 802.70 exempts completely from HSR premerger notification requirements acquisitions pursuant to a divestiture order once the order is accepted by the Commission for public comment or is filed with the Federal court for public comment. It does so because the Commission believes that such transactions, having received a full review and been accepted by the Commission or the Antitrust Division, are not likely to violate the antitrust laws and because exempting such acquisitions is necessary and appropriate to carry out the purposes of the act.

In deciding to revise rule 802.70, the Commission relied upon its own extensive merger enforcement experience, as well as that of the Antitrust Division of the Department of Justice.

Congress expressly has authorized the Commission, with the concurrence of the Assistant Attorney General, to ''exempt from requirements of [the act], classes of * * * transactions which are not likely to violate the antitrust laws.'' Section 7A(d)(2)(B) of the Act. The finding required by the statute can be demonstrated in different ways. The Commission can exempt a class of transactions because that class of transactions is inherently unlikely to be anticompetitive. Acquisitions pursuant to divestiture orders are inherently unlikely to be anticompetitive. Such transactions are already subject to the approval of the agencies and such approval would not be granted if the transaction would be anticompetitive. This is true whether or not the divestiture order is final. Accordingly, there is no need for a separate HSR filing.

List of Subjects in 16 CFR Part 802

Antitrust.

Final Rule

The Commission amends Title 16b Chapter I, Subpart H, The Code of Federal Regulations as follows:

PART 802—EXEMPTION RULES

1. *Authority.* The authority citation for Part 802 continues to read as follows:

Authority: Sec. 7A(d) of the Clayton Act, 15 U.S.C. 18a(d), as added by sec. 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94–435, 90 Stat. 1390.

2. Section 802.70 is revised to read as follows:

§ 802.70 Acquisitions subject to order.

An acquisition shall be exempt from the requirements of the act if the voting securities or assets are to be acquired from an entity pursuant to and in accordance with:

(a) An order of the Federal Trade Commission or of any Federal court in an action brought by the Federal Trade Commission or the Department of Justice;

(b) An Agreement Containing Consent Order that has been accepted by the Commission for public comment, pursuant to the Commission's Rules of Practice; or

(c) A proposal for a consent judgment that has been submitted to a Federal court by the Federal Trade Commission or the Department of Justice and that is subject to public comment.

Donald S. Clark,

Secretary.

[FR Doc. 98–16954 Filed 6–24–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8773]

RIN 1545–AV62

EIC Eligibility Requirements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance to taxpayers who have been denied the earned income credit (EIC) as a result of the deficiency procedures and wish to claim the EIC in a subsequent year. The temporary regulations apply to taxpayers claiming the EIC for taxable years beginning after December 31, 1997, where the taxpayer's EIC claim was denied for a taxable year beginning after December 31, 1996. The text of these temporary regulations also serves as the text of proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective date:* June 25, 1998.

Applicability dates: For dates of applicability, see § 1.32–3T(f) of these regulations.

FOR FURTHER INFORMATION CONTACT: Karin Loverud at 202–622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1575. Responses to this collection of information are mandatory. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) providing guidance relating to the requirement that taxpayers who are denied the EIC for a taxable year demonstrate their eligibility to claim the EIC in a subsequent taxable year. This requirement is described in section 32(k)(2), which was added by section 1085(a)(1) of the Taxpayer Relief Act of 1997 (Public Law 105–34, 111 Stat. 788).

Section 32(k)(2) pertains to taxpayers who are denied the EIC as a result of the deficiency procedures under subchapter B of chapter 63 (the deficiency procedures). A taxpayer who has been denied the EIC for any taxable year as a result of the deficiency procedures is ineligible to claim the EIC for a subsequent taxable year unless the taxpayer provides information required by the Secretary demonstrating eligibility for the EIC. If the taxpayer demonstrates eligibility for the EIC, the taxpayer is not required to provide this information in the future unless the IRS again denies the EIC as a result of the deficiency procedures.

If the taxpayer fails to provide the required information or the information provided does not demonstrate eligibility for the EIC, the requirements of section 32(k)(2) are not satisfied. In such circumstances, the IRS can treat the failure to meet these requirements as a mathematical or clerical error.

In the case of deficiencies attributable to certain mathematical and clerical errors, enumerated in section 6213(g), the IRS is authorized to make a summary assessment, without following the normal deficiency procedures. In the case of EIC claims, mathematical and clerical errors can include both errors that apply generally to all returns and certain errors specific to the EIC. For example, mathematical and clerical errors include situations in which (1) a taxpayer fails to provide a correct taxpayer identification number required under section 32, or (2) a taxpayer who claims the EIC with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on the net earnings. As noted above, the IRS is now authorized to treat failure to meet the requirements of section 32(k)(2) as a mathematical or clerical error.

Ineligibility for the EIC under these new rules is subject to review by the courts.

The new provision applies to taxpayers who are denied the EIC on their return for any taxable year beginning after 1996.

Explanation of Provisions

A taxpayer who has been denied the EIC, in whole or in part, as a result of deficiency procedures is ineligible to file a return claiming the EIC subsequent to the denial until the taxpayer provides evidence of eligibility for the EIC. Deficiency procedures include administrative procedures (other than procedures related to mathematical or clerical errors) that result in an assessment of a deficiency in tax, whether or not a notice of deficiency is issued. To demonstrate current eligibility, the regulations require the taxpayer to complete Form 8862, *Information To Claim Earned Income Credit After Disallowance.* Form 8862 contains a series of questions designed to assist the IRS in determining whether the taxpayer is eligible to claim the EIC under section 32 for the subsequent taxable year. A taxpayer fails to demonstrate eligibility if, for example, the form is incomplete or any item of information on the form is incorrect or inconsistent with any item on the return. If the taxpayer properly demonstrates eligibility for the EIC, the taxpayer is not required to submit Form 8862 in the future unless the IRS again denies the EIC as a result of the deficiency procedures.

The regulations require the taxpayer to attach Form 8862 to the first income tax return on which the taxpayer claims the EIC after the EIC has been denied as a result of the deficiency procedures. The EIC is denied as a result of the deficiency procedures when an assessment of a deficiency is made (other than as a mathematical or clerical error under section 6213(b)(1)).

The Treasury Department and the IRS anticipate that the Commissioner of Internal Revenue may require taxpayers to provide documentary evidence in addition to Form 8862. Whether or not the Commissioner requires taxpayers to provide documentary evidence in addition to Form 8862, the Commissioner may choose to examine any return claiming the EIC for which Form 8862 is required.

The regulations provide that if the taxpayer fails to properly complete Form 8862 or does not demonstrate eligibility for the EIC, the provisions of section 32(k)(2) are not satisfied. In such circumstances, the IRS can deny the EIC as a mathematical or clerical error under section 6213(g)(2)(J) [(K)] (relating to the omission of information required by section 32(k)(2)). If a taxpayer's claim for the EIC is denied under section 6213(g)(2)(J) [(K)], the taxpayer must attach Form 8862 to the next return for which the EIC is claimed.

The regulations provide that if two individuals marry after one has been denied the EIC as a result of the deficiency procedures, the eligibility requirements apply when they file a joint return and claim the EIC. For example, two unmarried taxpayers have qualifying children and claim the EIC. The taxpayers subsequently marry. For a taxable year preceding the marriage, one of the taxpayers was denied the EIC under the deficiency procedures and has not established eligibility for a subsequent year. In this situation, if they claim the EIC for the taxable year in which they marry, the demonstration of eligibility rules will apply.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the underlying statute applies only to individuals. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f), these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

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

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.32–3T is added to read as follows:

§ 1.32–3T Eligibility requirements (temporary).

(a) *In general.* A taxpayer who has been denied the earned income credit (EIC), in whole or in part, as a result of the deficiency procedures under subchapter B of chapter 63 (deficiency procedures) is ineligible to file a return claiming the EIC subsequent to the denial until the taxpayer demonstrates eligibility for the EIC in accordance with paragraph (c) of this section. If a taxpayer demonstrates eligibility for a taxable year in accordance with paragraph (c) of this section, the taxpayer need not comply with those requirements for any subsequent taxable year unless the Service again denies the EIC as a result of the deficiency procedures.

(b) *Denial of the EIC as a result of the deficiency procedures.* For purposes of this section, denial of the EIC as a result of the deficiency procedures occurs when a tax on account of the EIC is assessed as a deficiency (other than as a mathematical or clerical error under section 6213(b)(1)).

(c) *Demonstration of eligibility.* In the case of a taxpayer to whom paragraph (a) of this section applies, and except as otherwise provided by the Commissioner, no claim for the EIC filed subsequent to the denial is allowed unless the taxpayer properly completes Form 8862, *Information To Claim Earned Income Credit After Disallowance,* demonstrating eligibility for the EIC, and otherwise is eligible for the EIC. If any item of information on Form 8862 is incorrect or inconsistent with any item on the return, the taxpayer will be treated as not demonstrating eligibility for the EIC. The taxpayer must attach Form 8862 to the taxpayer's first income tax return on which the taxpayer claims the EIC after the EIC has been denied as a result of the deficiency procedures.

(d) *Failure to demonstrate eligibility.* If a taxpayer to whom paragraph (a) of this section applies fails to satisfy the requirements of paragraph (c) of this section with respect to a particular taxable year, the IRS can deny the EIC as a mathematical or clerical error under section 6213(g)(2)(J) [(K)].

(e) *Special rule where one spouse denied EIC.* The eligibility requirements set forth in this section apply to taxpayers filing a joint return where one spouse was denied the EIC for a taxable year prior to marriage and has not established eligibility as either an unmarried or married taxpayer for a subsequent taxable year.

(f) *Effective date.* This section applies to returns claiming the EIC for taxable years beginning after December 31, 1997, where the EIC was denied for a taxable year beginning after December 31, 1996.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.32–3T	1545–1575
* * * * *	

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: May 18, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–16840 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC45

Redesignation of 30 CFR Part 250—Oil And Gas And Sulphur Operations In The Outer Continental Shelf; Correction

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule; Corrections.

SUMMARY: MMS published in the **Federal Register** of May 29, 1998 (63 FR 29478) a final rule commonly known as the ''Redesignation'' rule which assigns new section numbers to each section in part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf). The purpose was so that MMS can logically format the subparts in the future without further renumbering. The MMS needs to make several minor corrections to the published document.

EFFECTIVE DATE: The rule is effective on June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, Engineering and Operations Division at (703) 787–1600.

SUPPLEMENTARY INFORMATION: The final regulations contain several errors in the redesignation table showing the redesignated section containing references to other regulation citations. These may prove to be misleading and are in need of correction. Only the lines being corrected are included in the following.

Correction of Publication

Accordingly, the publication on May 29, 1998 of the final regulations which were the subject of FR Doc. 98–13249, is corrected as follows:

1. On pages 29486 and 29487, in the table of redesignation, the entries in the

second and third columns for the following redesignated sections in the first column are corrected to read:

Redesignated section	Old reference	New reference
* * *	* * *	* *
250.906(b)(2)(iii)	250.137	250.907.
* * *	* * *	* *
250.1000(c)	250.150 through 250.158	250.1000 through 250.1008.
* * *	* * *	* *
250.1009(a)(1)	250.150 through 250.158	250.1000 through 250.1008.
* * *	* * *	* *
250.1500(a)	250.211 through 250.216	250.1502 through 250.1507
250.1500(b)	250.217 through 250.222	250.1508 through 250.1513.
250.1500((c)	250.223 through 250.229	250.1514 through 250.1520.
250.1500(c)	250.233	250.1524.
250.1500(d)	250.230 through 250.232	250.1521 through 250.1523.
250.1505(c)	250.214	250.1505.
250.1505(f)	250.214	250.1505.
* * *	* * *	* *
250.1605(a)	250.260 through 250.274	250.1605 through 250.1619.
* * *	* * *	* *
250.1627(a)	250.290 through 250.297	250.1627 through 250.1634.

Dated: June 18, 1998.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 98–16969 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS–014–FOR]

Mississippi Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Mississippi regulatory program (hereinafter referred to as the ''Mississippi program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revisions to the Mississippi Surface Coal Mining and Reclamation Law pertaining to the small operator assistance program, variances from performance standards, enforcement, and administrative and judicial review proceedings. The amendment is intended to revise the Mississippi program to be consistent with SMCRA.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homeward, Alabama 35209, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior conditionally approved the Mississippi program. Background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 58520). Subsequent actions concerning the conditions of approval amendments can be found at 30 CFR 924.10, 924.16, and 924.17.

II. Submission of the Proposed Amendment

By letter dated March 26, 1998 (Administrative Record No. MS–0354), Mississippi submitted an amendment to its program pursuant to SMCRA. Mississippi proposed to amend the Mississippi Surface Coal Mining and Reclamation Law (MSCMRL) in response to the required amendments codified at 30 CFR 924.16(b), (c), and (d).

OSM announced receipt of the proposed amendment in the April 14, 1998, **Federal Register** (63 FR 18172), and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on May 14, 1998. Because no one requested a public hearing or meeting, none was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment.

1. § 53–9–26, Small Operator Assistance Program

Mississippi proposed to change the word ''operation'' to the word ''operator'' in the phrase ''at all locations of surface coal mining operation.''

The Director finds that the revision satisfies the requirement placed on the Mississippi program at 30 CFR 924.16(b)(1) on January 9, 1998 (63 FR 1342), and that Mississippi's revised provision at section 53–9–26 is no less stringent than section 507(c) of SMCRA. Therefore, the Director is approving the revision and removing the required amendment.

2. § 53–9–45, Variances From Performance Standard

At section 53–9–45(4)(b), Mississippi proposed to remove the reference to subsection (2) from the phrase ''a variance from the requirement to restore to approximate original contour set forth in subsection (2) or (3) of this section.''

The Director finds that the revision satisfies the requirement placed on the Mississippi program at 30 CFR 924.16(b)(2) on January 9, 1998 (63 FR 1342), and that Mississippi's revised provision at section 53–9–45 is no less stringent than section 515(e)(2) of SMCRA. Therefore, the Director is approving the revision and removing the required amendment.

3. § 53.9–69, Enforcement and Administrative and Judicial Review Proceedings

a. At section 53–9–69(1)(c)(i), Mississippi proposed to change the word ''may'' to the word ''shall'' in the phrase ''the commission, executive director or the executive director's authorized representative may issue an order to the permittee or agent of the permittee.''

The Director finds that the revision satisfies the requirement placed on the Mississippi program at 30 CFR 924.16(c) on January 9, 1998 (63 FR 1342), and that Mississippi's revised provision at section 53–9–69(1)(c)(i) is no less stringent than section 521(a)(3) of SMCRA. Therefore, the Director is approving the revision and removing the required amendment.

b. Mississippi proposed to add the following new provision at section 53–9–69(4):

When an order is issued under this section, or as a result of any administrative proceeding under this chapter, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the commission to have been reasonably incurred by that person for or in conjunction with that person's participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review, or the commission, resulting from administrative proceedings deems proper.

The Director finds that the addition of this new provision satisfies the requirement placed on the Mississippi program at 30 CFR 924.16(d)(1) on January 9, 1998 (63 FR 1342), and that Mississippi's provision at section 53–9–69(4) is no less stringent than section 525(e) of SMCRA. Therefore, the Director is approving the new provision and removing the required amendment.

4. § 53–9–77, Formal Hearings

Mississippi proposed to add the following new provision at section 53–9–77(5):

Except as provided in Section 53–9–67, the availability of judicial review under this section shall not limit any rights established under Section 53–9–67.

The Director finds that the addition of this new statutory provision satisfies the requirement placed on the Mississippi program at 30 CFR 924.16(d)(2) on January 9, 1998 (63 FR 1342), and that Mississippi's provision at section 53–9–77(5) is no less stringent than the counterpart Federal provision at section 526(e) of SMCRA. Therefore, the Director is approving the new provision and removing the required amendment.

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Mississippi program (Administrative Record No. MS–0357). On April 29, 1998, the U.S. Army Corps of Engineers commented that a review of the proposed amendment found it to be satisfactory (Administrative Record No. MS–0363).

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Mississippi proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. MS–0357). The EPA did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. MS–0357). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Mississippi on March 26, 1998.

The Federal regulations at 30 CFR Part 924, codifying decisions concerning the Mississippi program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. 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 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. 3507 *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 corresponding 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 corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 6, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 924 is amended as set forth below:

PART 924—MISSISSIPPI

1. The authority citation for Part 924 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 924.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 924.15 Approval of Mississippi regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
March 26, 1998	June 25, 1998	MSCMRL 53–9–26; 45(4)(b); 69(1)(c)(i) and (4); 77(5).

§ 924.16 [Amended]

3. Section 924.16 is amended by removing and reserving paragraphs (b), (c), and (d).

[FR Doc. 98–16813 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Service Property

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends United States Postal Service regulations concerning conduct on postal property to: prohibit smoking in postal buildings; prohibit soliciting of signatures on petitions, polls, or surveys on postal property except as otherwise authorized by Postal Service regulations; prohibit impeding ingress to or egress from post offices; add regulations for voter registration activities on postal property to reflect current postal policy; prohibit unauthorized leafleting, picketing, demonstrating, public assembly, and public address in lobbies and other interior areas of postal buildings open to the public; prohibit placement of tables, chairs, freestanding signs or posters, structures, or furniture of any type on postal property except as part of postal activities or as otherwise permitted by these regulations; permit, in addition to guide dogs, other animals used to assist persons with disabilities on postal property; prohibit the storage of weapons and explosives on postal property except for official purposes; clarify the meaning of terms; change references to other postal directives; and provide that Office of Inspector General Criminal Investigators and other persons designated by the Chief Postal Inspector may also enforce Postal Service property regulations.

EFFECTIVE DATE: This final rule is effective June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Henry J. Bauman, Independent Counsel, Postal Inspection Service, (202) 268–4415.

SUPPLEMENTARY INFORMATION: On November 18, 1997, the Postal Service published a proposed rule to amend its conduct on postal property regulations, 62 FR 61481. Comments concerning the proposed rule were received from one organization, the National Newspaper Association (NNA), before the comment period closed on December 18, 1997. NNA objected to the language in proposed § 232.1(h)(1) prohibiting the vending of newspapers on postal property. NNA believes the language is too broad and may be misinterpreted in the future as prohibiting the placement of newspaper racks in nonpostal property locations that are contiguous to postal property. NNA also objected to the language in proposed § 232.1(h)(1) prohibiting the impeding of ingress to or egress from post offices. NNA recommended deleting the language, stating there are certain post offices in which the sidewalks leading to and from the postal property are public walkways that would qualify as public fora exempt from Postal Service regulation under United States v. Kokinda. Finally, NNA suggested the proposed amendments should be changed to make clear that they apply only to postal property.

In response to the NNA comments, the Postal Service acknowledges that it has no authority to regulate conduct on nonpostal property, including public property that is contiguous to postal property. Current § 232.1(a) provides that the regulations apply only to real property under the charge and control of the Postal Service. In those cases where post offices are accessible only through nonpostal public or private property, state and local laws and regulations apply to the nonpostal public or private property. These final regulations do not extend, nor is it the intent to extend, Postal Service conduct on property regulations to nonpostal property.

List of Subjects in 39 CFR Part 232

Federal buildings and facilities, Penalties, Postal Service.

Accordingly, 39 CFR part 232 is amended as set forth below.

PART 232—CONDUCT ON POSTAL PROPERTY

1. The authority citation for part 232 is revised to read as follows:

Authority: 18 U.S.C. 13, 3061; 21 U.S.C. 802, 844; 39 U.S.C. 401, 403(b)(3), 404(a)(7); 40 U.S.C. 318, 318a, 318b, 318c; Pub. L. 104–208, 110 Stat. 1060.

2. Section 232.1(b) is amended by revising the phrase ''section 115 of the Domestic Mail Manual'' to read ''section 274 of the Administrative Support Manual.''

3. Section 232.1 is amended by revising the heading of paragraph (g) and designating its existing text as (g)(1), revising the first sentence of paragraph (g)(1), and adding paragraph (g)(2) to read as follows:

§ 232.1 Conduct on postal property.

* * * * *

(g) *Alcoholic beverages, drugs, and smoking.*

(1) A person under the influence of an alcoholic beverage or any drug that has been defined as a ''controlled substance'' may not enter postal property or operate a motor vehicle on postal property. * * *

(2) Smoking (defined as having a lighted cigar, cigarette, pipe, or other smoking material) is prohibited in all postal buildings and office space, including public lobbies.

* * * * *

4. Section 232.1(h)(1) introductory text is revised to read as follows:

(h) * * *

(1) Soliciting alms and contributions, campaigning for election to any public office, collecting private debts, soliciting and vending for commercial purposes (including, but not limited to, the vending of newspapers and other publications), displaying or distributing commercial advertising, soliciting signatures on petitions, polls, or surveys (except as otherwise authorized by Postal Service regulations), and impeding ingress to or egress from post offices are prohibited. These prohibitions do not apply to:

* * * * *

5. Section 232.1(h)(1)(i) is amended by adding the phrase ''or nonprofit'' after the word ''Commercial.''

6. Section 232.1(h)(3), (4), and (5) are added to read as follows:

(h) * * *

(3) Leafleting, distributing literature, picketing, and demonstrating by members of the public are prohibited in lobbies and other interior areas of postal buildings open to the public. Public assembly and public address, except when conducted or sponsored by the Postal Service, are also prohibited in lobbies and other interior areas of postal building open to the public.

(4) *Voter registration.* Voter registration may be conducted on postal premises only with the approval of the postmaster or installation head provided that all of the following conditions are met:

(i) The registration must be conducted by government agencies or nonprofit civic leagues or organizations that operate for the promotion of social welfare but do not participate or intervene in any political campaign on behalf of any candidate or political party for any public office.

(ii) Absolutely no partisan or political literature may be available, displayed, or distributed. This includes photographs, cartoons, and other likenesses of elected officials and candidates for public office.

(iii) The registration is permitted only in those areas of the postal premises regularly open to the public.

(iv) The registration must not interfere with the conduct of postal business, postal customers, or postal operations.

(v) The organization conducting the voter registration must provide and be responsible for any equipment and supplies.

(vi) Contributions may not be solicited.

(vii) Access to the workroom floor is prohibited.

(viii) The registration activities are limited to an appropriate period before an election.

(5) Except as part of postal activities or activities associated with those permitted under paragraph (h)(4) of this section, no tables, chairs, freestanding signs or posters, structures, or furniture of any type may be placed in postal lobbies or on postal walkways, steps, plazas, lawns or landscaped areas, driveways, parking lots, or other exterior spaces.

* * * * *

7. Section 232.1(j) is revised to read as follows:

(j) *Dogs and other animals.* Dogs and other animals, except those used to assist persons with disabilities, must not be brought upon postal property for other than official purposes.

* * * * *

8. Section 232.1(l) is revised to read as follows:

(l) *Weapons and explosives.* No person while on postal property may carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, or store the same on postal property, except for official purposes.

* * * * *

9. Section 232.1(q)(3) is revised to read as follows:

(q) * * *

(3) Postal Inspectors, Office of Inspector General Criminal Investigators, and other persons designated by the Chief Postal Inspector may likewise enforce regulations in this section.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–16971 Filed 6–24–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 048–1048a; FRL–6113–1]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Iowa State Implementation Plan (SIP) submitted by the state of Iowa. This approval incorporates Iowa rule revisions which are necessary to meet the requirements of the Clean Air Act (CAA) and the Code of Federal Regulations (CFR). These revisions improve the state's permitting programs and strengthen the SIP with respect to attainment and maintenance of established air quality standards, and with respect to control of hazardous air pollutants (HAP).

DATES: This direct final rule is effective on August 24, 1998 without further notice, unless the EPA receives adverse comment by July 27, 1998. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule did not take effect.

ADDRESSES: Comments may be mailed to Wayne A. Kaiser, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: The state of Iowa requested approval of its SIP revisions under the authority and signature of the Governor's designee, Larry J. Wilson, Director, Iowa Department of Natural Resources (IDNR). Two separate requests, dated October 21, 1997, and January 3, 1998, were received by the EPA. All of the submittals were determined complete in accordance with the criteria specified in 40 CFR Part 51, Appendix V. The state provided evidence of the lawful adoption of regulations, public notice, and relevant public hearing requirements for each submittal.

The rule revisions adopted by the state are discussed in general terms below. Additional detail and supporting information relevant to the state's actions are contained in the EPA Technical Support Document (TSD) which is included in the docket for this action. Persons interested in obtaining a copy of the TSD should contact the EPA contact above.

Certain portions of the state rule revisions are not part of the SIP (e.g., new source performance standards, national emission standards for HAPs, and emission guidelines). While these updated regulations are an important component of the state's air quality program, they are excluded from this action because they are not intended to meet the SIP requirements of section 110 of the Act. Therefore, the EPA is not taking action on those portions.

Rules adopted April 15, 1996, and effective June 12, 1996. The definition of volatile organic compounds (VOC) in rule 20.2, Definitions, was updated to be consistent with the EPA definition in § 51.100(s). Rule 22.8(1), Permit by rule for spray booths, was revised to correct rule references within the rule. The voluntary operating permit rule at 22.202 was revised to allow sources the opportunity to obtain a permit under rule 22.300, as discussed below, and a clarification was made to rule 22.203 regarding the date to apply for a voluntary permit.

A new permitting program was established by rule 22.300 series, Operating permit by rule for small sources. These rules establish an optional voluntary permit program for small sources (sources which emit less than 50 percent of the major source threshold levels) otherwise subject to the Title V permitting program. Sources meeting the eligibility requirements and submitting the necessary documentation will be exempted from applying for a Title V operating permit and from paying the Title V fees.

Establishment of the operating permit by rule for small sources provides a mutual benefit to the state, the regulated community, and the public. Sources have an incentive to maintain low levels of emissions, thereby reducing their own and the state's administrative requirements while the public's exposure to pollutants is decreased. The rules require specific and enforceable operating restrictions which meet the EPA guidance for Federal enforceability. Because the rules limit emissions of HAPs as well as VOCs, the EPA is approving the rules under sections 110 and 112(l) of the Act.

Finally, rules 23.3 and 29.1 related to opacity limits in construction permits and observer qualifications were revised.

The IDNR also revised rule 22.1(2) pertaining to permit exemptions. However, the EPA is deferring action on this revision pending action on an earlier revision.

Rules adopted August 19, 1996, effective October 16, 1996. New definitions for ''country grain elevator'' and ''potential to emit'' were added to rule 20.2. These revisions, in conjunction with existing rules, allow the IDNR the opportunity to issue non-Title V permits to affected sources which accept operating capacity restrictions, and thus restricted emissions. This action is consistent with the EPA guidance memorandum of November 14, 1995.

Rules adopted October 21, 1996, effective December 25, 1996. Minor revisions were made to clarify and simplify certain provisions of rule 22.300(4), Stationary Sources With De Minimis Emissions, and 22.300(8), Registration and Reporting Requirements.

Rules adopted March 17, 1997, effective May 14, 1997. Definitions rule 20.2 was revised to add a new definition for ''emergency generator,'' and the definition of ''potential to emit'' was revised. Rule 22.2 was revised to allow a source 60 days, rather than 30, to provide additional information prior to a permit denial. Voluntary operating permit rules, 22.201–22.203, were revised to clarify eligibility requirements for sources. Rules 22.300(3) ''b'' and ''c'' were clarified regarding the permit deferral date and applicability requirements, and 22.300(8)''a'' was clarified regarding the application shield. Rule 22.1(2) was also revised by the IDNR in this rulemaking, but for the reason noted above, the EPA is deferring approval action on this revision at this time.

Rule adopted June 16, 1997, effective August 20, 1997. This minor revision consisted of renumbering rule 23.1(5), Calculation of emission limitations based upon stack height, to 23.1(6).

I. Final Action

In summary, the EPA is taking final action approving the revisions to the Iowa SIP as described above. These revisions meet the requirements of the Act and ensure that the SIP remains consistent with Federal regulations.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective August 24, 1998 without further notice unless the Agency receives relevant adverse comments by July 27, 1998.

If the EPA receives such comments, then the EPA will publish a notice withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 24, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

The final rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct

a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 26, 1998.

William Rice,

Acting Regional Administrator, Region VII.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(67) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(67) In correspondence dated October 21, 1997, and January 21, 1998, the Director of the Iowa Department of Natural Resources submitted revisions to the State Implementation Plan.

(i) Incorporation by reference.

(A) ''Iowa Administrative Code'' sections 567–22.8(1) ''b,'' ''c,'' and ''e,'' 567–22.203(1) ''a,'' 567–22.300, 567–22.300(1) throu gh 567–22.300(11), 567–23.3(2) ''d,'' and 567–29.1, effective June 12, 1996.

(B) ''Iowa Administrative Code'' section 567–20.2, effective October 16, 1996.

(C) ''Iowa Administrative Code'' sections 567–22.300(4) ''b''(1), 567–22.300(8) ''a''(1), and 567–22.300(8) ''b''(2), effective December 25, 1996.

(D) ''Iowa Administrative Code'' sections 567–20.2, 567–22.2(1), 567–22.201(1) ''a,'' 567–22.201(2) ''b,'' 567–22.202, 567–22.203(1), 567–22.300(3) ''b'' and ''c,'' 567–22.300(8) ''a,'' effective May 14, 1997.

(ii) Additional material.

(A) ''Iowa Administrative Code'' section 567–23.1(5), Calculation of emission limitations based upon stack height, was renumbered to section 567–23.1(6), effective August 20, 1997.

[FR Doc. 98–16797 Filed 6–24–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA61–7136, WA64–7139; FRL–6110–7]

Approval and Promulgation of State Implementation Plans: Washington; Correcting Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correcting amendments.

SUMMARY: This action corrects a paragraph numbering error in the Identification of Plan section found in the Washington State Implementation Plan (SIP) revision published on August 6, 1997.

EFFECTIVE DATE: June 25, 1998.

ADDRESSES: Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: Environmental Protection Agency (EPA), Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and the State of Washington, Department of Ecology, 300 Desmond Drive, Lacey, WA 98503.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460, as well as the above addresses.

FOR FURTHER INFORMATION CONTACT: Christine Lemmé, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–0977.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1997 (62 FR 42216), EPA approved several minor revisions to the Washington State Implementation Plan (SIP) which revised certain regulations of the Puget Sound Air Pollution Control Agency (PSAPCA). An error occurred in the paragraph number cited in the Identification of Plan section. The incorrect paragraph number published was (73), this action corrects the paragraph number to (74).

Administrative Requirements

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

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Fees, Incorporation by reference, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: June 5, 1998.

Chuck Findley,

Acting Regional Administrator, Region X.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.2470 is amended by adding paragraph (c) (74) to read as follows:

Subpart WW—Washington

§ 52–2470 Identification of plan.

* * * * *

(c) * * *

(74) On November 26, 1996 and April 7, 1997, the Director of the Washington State Department of Ecology (Washington) submitted to the Regional Administration of EPA revisions to the State Implementation Plan consisting of minor amendments to Puget Sound Air Pollution Control Agency (PSAPCA) Regulations I and III.

(i) Incorporation by reference.

(A) PSAPCA Regulations approved—Regulation I, Sections 3.11, 3.23, 5.02, 5.05, 5.07, 6.03, 7.09—State-adopted 9/12/96. Regulation III, Section 4.03—State-adopted 9/12/96. Regulation I, Sections 5.03 and 6.04—State-adopted 12/12/96. Regulation III, Sections 1.11, 2.01 and 2.05—State-adopted 12/12/96.

[FR Doc. 98–16795 Filed 6–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 53

[CC Docket No. 96–149; FCC 96–489]

Non-Accounting Safeguards; Correction

AGENCY: Federal Communications Commission

ACTION: Correcting amendments.

SUMMARY: This document contains a corrections to a final regulation in *Implementation of Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as Amended* that was published in the **Federal Register** of January 21, 1997, (62 FR 2927). The regulation related to the definition of a successor or assign of a Bell operating company.

EFFECTIVE DATES: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Lisa Choi, Common Carrier Bureau, (202) 418–1384.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 1998, the Common Carrier Bureau released an erratum to the First Report and Order and Further Notice of Proposed Rulemaking, DA 98–1107, in CC Docket No. 96–149. This correction reflects the change included in that erratum. The full text of the erratum is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M. St., NW, Washington, DC.

Need for Correction

As published, the final regulation contains language that could be misleading.

List of Subjects in 47 CFR Part 53

General information, Bell operating company entry into InterLATA services, Separate affiliate, Safeguards, Manufacturing by Bell operating companies, Electronic publishing by Bell operating companies, Alarm monitoring services.

Accordingly, 47 CFR part 53 is corrected by making the following correcting amendment:

PART 53—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

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

Authority: Sections 1–5, 7, 201–05, 218, 251, 253, 271–75, 48 Stat. 1070, as amended, 1077; 47 U.S.C. §§ 151–55, 157, 201–05, 218, 251, 253, 271–75, unless otherwise noted.

§ 53.207 [Corrected]

2. In § 53.207, in the first sentence, remove the word ''unaffiliated'' and add, in its place ''affiliated.''

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–16931 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–225; RM–8894, RM–9004]

Radio Broadcasting Services; Canton, Normal, and Heyworth, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of WSHY, Inc., allots Channel 252A at Canton, Illinois, as its third local FM transmission service; and Channel 264A at Normal, Illinois, as its second local commercial FM transmission service (RM–8894). *See* 61 FR 60068, November 26, 1996. At the request of Atlantis Broadcasting, Co., L.L.C., we also allot Channel 250A at Heyworth, Illinois, as its first local aural transmission service (RM–9004). Channel 252A can be allotted to Canton in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 kilometers (2.4 miles) west to avoid a short-spacing to the licensed site of Station WIVR(FM), Channel 253A, Eureka, Illinois. The coordinates for Channel 252A at Canton are North Latitude 40–32–46 and West Longitude 90–04–59. *See* Supplementary Information, *infra.*

EFFECTIVE DATE: August 3, 1998. A filing window for Channel 252A at Canton, Illinois, Channel 264A at Normal, Illinois, and Channel 250A at Heyworth, Illinois, will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–225, adopted June 10, 1998, and released June 19, 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 contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Additionally, Channel 264A can be allotted to Normal with a site restriction of 11.1 kilometers (6.9 miles) southwest to avoid short-spacings to the licensed sites of Station WRVY–FM, Channel 263A, Henry, Illinois, and Station WMGI(FM), Channel 264B, Terre Haute, Indiana. The coordinates for Channel 264A at Normal are North Latitude 40–27–38 and West Longitude 89–06–06. Channel 250A can be allotted to Heyworth with a site restriction of 3.8 kilometers (92.4 miles) north to avoid short-spacings to the licensed sites of Station WHMS–FM, Channel 248B, Champaign, Illinois, and Station WLUJ(FM), Channel 249A, Petersburg, Illinois. The coordinates for Channel 250A at Heyworth are North Latitude 40–20–55 and West Longitude 88–58–56. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Channel 252A at Canton; Channel 264A at Normal; and Heyworth, Channel 250A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–16918 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–30; RM–9228]

Radio Broadcasting Services; Shenandoah, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Daryl A. Alligood, allots Channel 296A to Shenandoah, VA, as the community's first local aural transmission service. *See* 63 FR 13027, March 17, 1998. Channel 296A can be allotted to the community in compliance with the Commission's minimum distance separation requirements, at coordinates 38–30–00 NL; 78–36–33 WL, which represents a site restriction of 2.1 kilometers (1.3 miles) northeast to avoid a short-spacing to Station WCHG(FM), Channel 296A, Hot Springs, Virginia. Since the reference coordinates for this allotment are located within the protected areas of the National Radio Astronomy Observatory ''Quiet Zone'' at Green Bank, West Virginia, the petitioner and any other applicants will be required to comply with the notification requirement of Section 73.1030(a) of the Commission's Rules. With this action, this proceeding is terminated.

DATES: Effective July 27, 1998. A filing window for Channel 296A at Shenandoah, VA, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–30, adopted June 3, 1998, and released June 12, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Shenandoah, Channel 296A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–16917 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 97–D002]

Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement streamlined solicitation and contracting procedures for research and development acquisitions. The streamlined procedures are expected to reduce the time and cost required to obtain proposals and award research and development contracts.

DATES: *Effective date:* June 25, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before August 24, 1998, to be considered in the formulation of the final rule.

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

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

Please cite DFARS Case 97–D002 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97–D002 in the subject line.

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

SUPPLEMENTARY INFORMATION:

A. Background

In October 1994, the Director of Defense Procurement authorized a test of certain streamlined solicitation and contracting procedures for research and development acquisitions at certain DoD laboratories. The test results demonstrated the benefits of standardizing the format of solicitations and contracts issued by various contracting activities, and of using the standard format to streamline the solicitation and contracting process. However, to facilitate maintenance of an accurate and timely standard format, to move towards a paperless solicitation and contracting process, and to leverage available information technology, the standard format has been moved from the DFARS to a World Wide Web site. Similarly, solicitations issued using these procedures will be published exclusively on the World Wide Web. This final rule supersedes the interim rule published under DFARS Case 96–D028 on April 4, 1997 (62 FR 16099).

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule merely provides an implementation of electronic contracting procedures already authorized by the Federal Acquisition Regulation. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D002 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule provides streamlined procedures, and a standard solicitation and contract format, for acquisition of research and development. Streamlined procedures and use of the World Wide Web will substantially reduce the time and cost required to obtain proposals and award research and development contracts. Any delay in implementing these procedures will result in the loss of potential savings, thus reducing the Department's buying power. Implementation of these procedures will also help the Department achieve its paperless contracting goal by the year 2000. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 235

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 235 is amended as follows:

1. The authority citation for 48 CFR Part 235 continues to read as follows:

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

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Subpart 235.70 is revised to read as follows:

Subpart 235.70—Research and Development Streamlined Contracting Procedures

Sec.

235.7000 Scope.
235.7001 Definitions.
235.7002 Applicability.
235.7003 Research and development streamlined solicitation and contract.
235.7003–1 General.
235.7003–2 RDSS process.
235.7003–3 Proposal evaluation and contract award.
235.7003–4 Additional provisions and clauses.

235.7000 Scope.

This subpart prescribes streamlined procedures for acquiring research and development, using a standard solicitation and contract format and the capabilities of the World Wide Web.

235.7001 Definitions.

As used in this subpart—

(a) *Research and development streamlined contract (RDSC)* means—

(1) A contract that results from use of the research and development streamline solicitation; or

(2) Any other contract prepared in the standard format published at the RDSS/C website.

(b) *Research and development streamlined solicitation (RDSS)* means a solicitation issued in accordance with 235.7003.

(c) *RDSS/C website* means the site on the World Wide Web at ''http://www.rdss.osd.mil/'' where research and development streamlined solicitation and contracting information is published.

235.7002 Applicability.

(a) Except as provided in paragraph (b) of this section, consider using the procedures in this subpart for acquisitions that—

(1) Will result in the award of a cost-reimbursement contract; and

(2) Meet the criteria for research and development as defined in 235.001 and FAR 35.001.

(b) Do not use the procedures in this subpart for—

(1) Contracts to be performed outside the United States and Puerto Rico;

(2) Contracts denominated in other than U.S. dollars;

(3) Acquisitions using simplified acquisition procedures;

(4) Acquisition of engineering and manufacturing development, management support, or operational system development, as defined in 235.001; or

(5) Acquisition of laboratory supplies and equipment, base support services, or other services identified in paragraphs (a) through (h) of the definition of ''service contract'' at FAR 37.101.

(c) Regardless of whether the RDSS is used, the RDSC may be used for any acquisition that meets the criteria in paragraph (a) of this section.

235.7003 Research and development streamlined solicitation and contract.

235.7003–1 General.

The procedures and standard format are published at the RDSS/C website. The RDSS/C Managing Committee is responsible for updating the website.

235.7003–2 RDSS process.

(a) *Synopisis.* The Commerce Business Daily synopsis required by FAR 5.203 shall include—

(1) The information required by FAR 5.207; and

(2) Statements that—

(i) A paper solicitation will not be issued; and

(ii) The solicitation will be published at the RDSS/C website.

(b) *Solicitation.* (1) The solicitation—

(i) Shall be published in its entirety at the RDSS/C website;

(ii) Shall include the applicable version number of the RDSS standard format; and

(iii) Shall incorporate by reference the appropriate terms and conditions of the RDSS standard format.

(2) To encourage preparation of better cost proposals, consider allowing a delay between the due dates for technical and cost proposals.

(c) *Amendments.* Amendments shall be published at the RDSS/C website.

235.7003–3 Proposal evaluation and contract award.

(a) Evaluate proposals in accordance with the evaluation factors set forth in the RDSS.

(b) *RDSC.* (1) The RDSC shall include—

(i) Standard Form (SF) 33, Solicitation, Offer and Award, or SF 26, Award/Contract; and

(ii) Sections B through J of the RDSS or other solicitation, with applicable fill-in information inserted.

(2) When an RDSC is awarded to an educational or nonprofit institution—

(i) Remove provisions and clauses that do not apply to educational or nonprofit institutions; and

(ii) As necessary, insert appropriate replacement provisions and clauses.

235.7003–4 Additional provisions and clauses.

Use of FAR and DFRAS provisions and clauses, and nonstandard provisions and clauses approved for agency use, that are not in the RDSS/C standard format, shall be approved in accordance with agency procedures.

[FR Doc. 98–16935 Filed 6–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 971208294–8154–02; I.D. 103097B]

RIN 0648–AJ20

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Restrictions on Frequency of Limited Entry Permit Transfers; Sorting Catch by Species; Retention of Fish Tickets

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures that restrict the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect on the first day of a cumulative landings limit period. This rule also requires the sorting of all groundfish species with trip limits, size limits, quotas, or harvest guidelines at the point of landing, and the retention of landings receipts on board the vessel that has made those landings. This rule is intended to constrain the introduction of new fishing effort into the Pacific Coast groundfish fisheries, and to improve the enforceability of Federal and state fisheries regulations.

DATES: Effective July 27, 1998.

ADDRESSES: Copies of the Environmental Assessments/Regulatory Impact Reviews (EA/RIRs) for these issues are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier at 206–526–6140, Svein Fougner at 562–980–4000, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: This rule implements three separate regulatory changes: (1) Restricting the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect only on the first day of a cumulative landings limit period; (2) providing Federal regulatory support for existing state requirements that require the sorting of all groundfish species with trip limits, size limits, quotas, or harvest guidelines; and (3) providing consistent regulatory requirements on the retention of landings receipts throughout the management area. These regulatory changes were recommended by the Council at its June 1995 and October 1996 meetings. The notice of proposed rulemaking for this action (62 FR 67610, December 29, 1997) fully described the background and rationale for the Council's recommendations. NMFS requested public comments on this action through February 12, 1998. NMFS received one comment during the comment period, which is addressed later in the preamble to this final rule.

Restrictions on Permit Transfer Frequency

This rule implements Council recommendations to constrain groundfish fleet effort expansion by restricting the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect only on the first day of a major cumulative limit period. The major cumulative limit periods are the cumulative limit periods that govern all gears in the groundfish fishery. These are generally 1– or 2–month periods. The major cumulative limit periods will be announced each

year in the **Federal Register** with the annual specifications and management measures, or with routine management measures when the cumulative limit periods are changed. Cumulative limit periods that govern just a portion of the groundfish fisheries, such as the fixed gear regular sablefish season, are not considered ''major'' cumulative limit periods. For permit holders participating in the ''B'' delivery platoon, transfer effectiveness dates will align with ''B'' platoon cumulative limit period dates, and the new holder of the ''B'' platoon permit will be required to participate in ''B'' platoon deliveries for the remainder of the calendar year.

This action is expected to constrain effort expansion in two ways: (1) It should prevent two or more vessels from sharing a limited entry permit during a single cumulative limit period and thereby landing more than one limit on that permit, and (2) it should discourage increased fishing effort in the fishery by preventing limited entry permit holders from temporarily transferring their permits during times when the vessel is undergoing repairs, operating in other fisheries, or otherwise idle.

If a permit holder suffers one of two specified hardships, NMFS may allow transfer of a permit within 12 months of a prior transfer. Hardship exemptions for this issue are either death of the permit holder or total loss of the permitted vessel. An application for a hardship transfer must include documents demonstrating that the transfer meets the exceptions of death of the permit holder or loss of the vessel. Hardship exemptions may not be used to waive the requirement that transfers take effect only on the first day of a cumulative limit period.

Total loss of vessel is defined in the Pacific Coast groundfish regulations at § 660.302, ''Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.'' Death of a permit holder would be documented by a copy of the death certificate of the permit holder. If the permit is owned by a partnership or a corporation, a transfer within 12 months of the last transfer will be allowed if a person or persons owning 50 percent or more of the ownership interest in the partnership or corporation have died.

If a request for transfer is denied, the Sustainable Fisheries Division (SFD), NMFS Northwest Region, will explain in writing why the transfer request has been denied. Further, if the transfer is denied, the permit holder may appeal that decision within 30 days to the Regional Administrator, explaining the basis for the appeal. The Regional Administrator will decide upon the appeal within 45 days in a final agency action.

Sorting of Groundfish Catch by Species

This measure requires the sorting of all species managed by trip limits, size limits, quotas, or harvest guidelines. This requirement will facilitate enforcement because agents will not have to examine unsorted catches. Compliance should also be enhanced if fishers sort at sea because fishers will be more aware of the harvest amount of individual species.

Retaining Fish Tickets on Board the Vessel

This action requires that all West Coast groundfish fishers retain landings receipts on board their vessels throughout the cumulative trip limit period of the landings and for 15 days thereafter. This rule also clarifies that the fish tickets must be provided to an authorized officer upon request. This is a minor regulatory change that is expected to eliminate confusion among fishers as to which state's landings receipts should be kept on board for what length of time.

Changes from the Proposed Rule

NMFS has made one change from the proposed rule, which is explained under ''Comment of Clarification.''

Comments and Responses

NMFS received one comment on the proposed rule during the 45-day comment period. NMFS also received comments on the proposal to restrict the frequency of limited entry permit transfers outside the comment period and subsequent to the Council's recommendation on this issue. Because those comments spoke directly to the intent of this rule, they will be summarized and addressed in this section.

Comment of Clarification

If a permit owner leases out his permit for a period of time, and then receives the permit back from the lessee without immediately registering the permit for use with a specific vessel, the vessel registration for that permit is listed as ''Unidentified'' until the permit owner specifies the vessel that will be registered with his or her permit. The proposed changes to the regulations at § 660.333(f)(2) read in part, ''Limited entry permits may not be transferred to a different holder or registered for use with a different vessel more than once every 12 months, except in cases of death of the permit holder or if the permit is totally lost.'' How would this provision apply to cases where a permit is transferred off one vessel and from one permit holder to another permit holder and yet not registered for use with a new vessel?

Response: NMFS has clarified the regulatory language § 660.333(f)(2) to address this comment as follows: ''When a permit transferred from one holder to another holder is initially registered as 'unidentified' with regard to vessel association, or when a permit's vessel registration is otherwise —unidentified', the transaction is not considered a —transfer' for purposes of this restriction until the permit is registered for use with a specific vessel.'' Because a permit may not be used unless it is registered for use with a particular vessel, NMFS does not expect that this change will alter the effectiveness of the rule in restricting the frequency of limited entry permit transfers. The result of this clarification is that a permit may be transferred to a different owner within 12 months, but it may not be registered for use with a vessel until the end of the 12–month period. In addition, a permit owner may remove a permit from a vessel within the 12-month period, but may not register it for use with another vessel until the end of the 12-month period.

Comments Opposing the Rule

As stated in the proposed rule, some members of the at-sea component of the whiting fishery oppose this action, because their participation in Pacific coast groundfish fisheries is limited to the whiting fishery and depends upon their ability to have short-term use of limited entry permits. Some permit owners wish to retain the flexibility to transfer their permits between vessels appropriate for the whiting fishery and vessels appropriate for the cumulative limit groundfish complex fishery occurring outside the whiting fishery. At and subsequent to the October 1996 Council meeting where these changes were first proposed, interested members of the public suggested that transfers made for the purpose of operating in the whiting fishery should not be subject to the restrictions described above.

Response: When making its recommendation on this issue, the Council determined that the benefits to the groundfish fishery that could be gained from restricting the entrance of new effort into the fishery as a whole

outweighed the concerns of the at-sea whiting sector. NMFS concurs with the Council's determination. When the limited entry program was implemented in 1994, NMFS and the Council expected that requirements associated with permit ownership would change over time. Permits were viewed as allowing a permit holder to operate the permitted vessel in the Pacific coast groundfish fishery, in conformance with the Pacific Coast Groundfish Fishery Management Plan (FMP), and to use the gear(s) for which the permit is endorsed. The Council and NMFS specifically retained the right to revise the FMP in the future, and to change or abolish the requirements associated with limited entry permits. NMFS finds that the restriction on permit transfers to once every 12 months is acceptable within the scope and intentions of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act.

Classification

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

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

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: June 18, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set forth 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 § 660.302, the definition of ''Fisheries Management Division'' is removed and a definition of ''Sustainable Fisheries Division'' is added to read as follows:

§ 660.302 Definitions.

* * * * *

Sustainable Fisheries Division (SFD) means the Chief, Fisheries Management Division, Northwest Regional Office, NMFS, or a designee.

3. In § 660.303, paragraph (c) is added to read as follows:

§ 660.303 Reporting and recordkeeping

* * * * *

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

4. In § 660.306, paragraph (h) is revised and paragraph (x) is added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(h) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline or quota applied.

* * * * *

(x) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

5. In § 660.333, paragraphs (c)(1) and (c)(2) are revised; paragraphs (c)(3) and (c)(4) are redesignated as (c)(4) and (c)(5) respectively and a new (c)(3) is added; paragraph (d) introductory text is revised; paragraphs (f)(2) and (f)(3) are redesignated as (f)(3) and (f)(4) respectively and a new (f)(2) is added to read as follows:

§ 660.333 Limited entry fishery - general.

* * * * *

(c) * * *

(1) Upon transfer of a limited entry permit, the SFD will reissue the permit in the name of the new permit holder, with such gear endorsements, and, if applicable, species endorsements as are eligible for transfer with the permit. Permit transfers will take effect on the first day of the next major limited entry cumulative limit period following the date of the transfer. Transfers of permits designated as participating in the ''B'' platoon will become effective on the first day of the next ''B'' platoon major limited entry cumulative limit period following the date of the transfer. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel and the permit is in the possession of the new permit holder.

(2) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. A permit not registered for use with a particular vessel may not be used. If the permit will be used with a vessel other than the one registered on the permit, a registration for use with the new vessel must be obtained from the SFD and placed on board the vessel before it is used under the permit. Registration of a permit to be used with a new vessel will take effect on the first day of the next major limited entry cumulative limit period following the date of the transfer.

(3) The major limited entry cumulative limit periods will be announced in the **Federal Register** each year with the annual specifications and management measures, or with routine management measures when the cumulative limit periods are changed.

* * * * *

(d) Evidence and burden of proof. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. A permit holder applying to register a limited entry permit has the burden to submit evidence to prove that registration requirements are met. The following evidentiary standards apply:

* * * * *

(f) * * *

(2) Limited entry permits may not be transferred to a different holder or registered for use with a different vessel more than once every 12 months, except in cases of death of the permit holder or if the permitted vessel is totally lost, as defined at § 660.302. The exception for death of a permit holder applies for a permit held by a partnership or a

corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies. When a permit transferred from one holder to another holder is initially ''unidentified'' with regard to vessel registration, or when a permit's vessel registration is otherwise ''unidentified'', the transaction is not considered a ''transfer'' for purposes of this restriction until the permit is registered for use with a specific vessel.

* * * * *

[FR Doc. 98–16789 Filed 6–24–98; 8:45 am]

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Proposed Rules

Federal Register
Vol. 63, No. 122
Thursday, June 25, 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 27

[Docket No. 29247; Notice No. 98–4]

RIN 2120–AF33

Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the airworthiness standards for normal category rotorcraft. This proposal would increase the maximum weight limit from 6,000 to 7,000 pounds and add a passenger seat limitation of nine. The increase in maximum weight is proposed to compensate for the increased weight resulting from additional regulatory requirements, particularly recent requirements intended to improve occupant survivability in the event of a crash. These changes are intended to update current airworthiness standards to provide the safety standards for normal category rotorcraft of 7,000 pounds or less.

DATES: Comments must be received on or before September 23, 1998.

ADDRESSES: Submit comments in triplicate to the FAA, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. , Room 915G, 800 Independence Avenue SW, Washington, DC 20591. Comments submitted must be marked Docket No. 29247. Comments may also be sent electronically to the following internet address: 9-nprm-cmts@faa.dot.gov. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193–0110, telephone (817) 222–5114, fax 817–222–5959.

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. Specifically, the FAA invites comments and data relating to the top hatch emergency exit proposed in new section 14 CFR 27.805(a). Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket at the address specified under the caption **ADDRESSES.**

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered before taking action on this proposal. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 29247.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRM's

Using a modem and suitable communications software, an electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone 703–321–3339), the **Federal Register's** electronic bulletin board service (telephone 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee (ARAC) bulletin board service (telephone: 800–322–2722 or 202–267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** webpage at http://www.access.gpo.gov/su__docs/aces/aces140.html for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, NPRM Distribution System, that describes the application procedure.

Background

Operational and design trends for normal category rotorcraft are approaching the current maximum weight limitations. This proposal would increase the maximum weight limitation from 6,000 to 7,000 pounds and would add a passenger seat limit of nine.

History

Since 1956, the FAA has based the distinction between normal and transport category rotorcraft certification requirements on the certificated maximum weight of the aircraft. Initially, the FAA set the upper weight limit for normal category rotorcraft at 6,000 pounds, based on the spectrum of existing and anticipated designs at that time. The 6,000-pound weight threshold and associated airworthiness standards have served the industry well for over 40 years.

In the 1970's, manufacturers began certificating new light twin-engine rotorcraft in the 4,000 to 6,000 pound weight class. Some single-engine models were also converted to twin-engines. This trend continues. Meanwhile, the FAA certification regulations evolved, gradually adding more stringent safety requirements that ultimately caused permanent increases in empty weight. The high cost of certification of transport category rotorcraft, the increased stringency of the current 14 CFR part 27 (part 27) regulations, and the trend toward modification of existing models have resulted in several normal category

helicopters nearing the current 6,000-pound maximum weight limitation.

Increasing the 6,000-pound weight limit for normal category rotorcraft was not formally discussed with the FAA until November 1991. At that time, a manufacturer petitioned the FAA for a regulatory exemption to allow a rotorcraft to exceed the 6,000-pound maximum weight limit specified for normal category rotorcraft. A summary of the petition was subsequently published in the **Federal Register** (57 FR 4508, February 5, 1992) for public comment. Comments were few and divided. While some commenters were in favor of the petition, others expressed the view that a weight change should not be permitted without considering increased regulatory stringency and/or a limit on the number of passengers. The FAA determined that the petition did not provide adequate justification nor did it show that a grant of exemption would be in the public interest. The FAA denied the petition but stated in the denial that a further study of the issues would be in the public interest.

The diversity of comments prompted the FAA to investigate the general issue of a future rule change in more detail. By letter dated April 1992 to rotorcraft manufacturers and trade associations, the FAA asked interested parties to comment on the advisability of increasing the current 6,000-pound maximum weight limitation. They were also asked to comment on safety criteria that should be associated with a weight limitation increase. Approximately 30 commenters responded to the request. Although these responses contained no specific objections to a future regulatory increase in the maximum allowable weight, the commenters articulated a wide range of views regarding the scope of such a revision.

Due to the level of interest in this issue, the FAA held a public meeting on February 2, 1994, immediately following the Helicopter Association International (HAI) Convention in Anaheim, California. All interested parties were given the opportunity to present their views to help determine a course of action that would be in the best interest of the rotorcraft aviation community. Consequently, the FAA and the Joint Aviation Authorities (JAA) determined that there was a need to review the maximum weight and passenger seat limitation for normal category rotorcraft.

Although not a part of this proposal, the FAA Rotorcraft Directorate identified a need to reevaluate the certification standards for rotorcraft at the low end of the maximum weight spectrum as a result of information gathered at this meeting. A joint FAA/JAA/Industry Working Group was tasked to reevaluate the maximum weight and seat limitation issues for all rotorcraft, including requirements for the low passenger capacity rotorcraft.

ARAC Involvement

By notice in the **Federal Register** (60 FR 4221, January 20, 1995), the FAA announced the establishment of the Gross Weight and Passenger Issues for Rotorcraft Working Group (GWWG). The GWWG was tasked to ''Review Title 14 Code of Federal Regulations part 27 and supporting policy and guidance material to determine the appropriate course of action to be taken for rulemaking and/or policy relative to the issue of increasing the maximum weight and passenger seat limitations for normal category rotorcraft.''

The GWWG includes representatives from all parties that have expressed an interest in this subject through submittal of comments to the FAA or through the public meeting process. The GWWG includes representatives from Aerospace Industries Association of America (AIA), Association Europeene des Constructeurs de Material Aerospatial (AECMA), the European JAA, Transport Canada and the FAA Rotorcraft Directorate. Additionally, representatives from the small rotorcraft manufacturers were consulted for their views by the GWWG. This broad participation is consistent with FAA policy to involve all known interested parties as early as practicable in the rulemaking process. The GWWG first met in February 1995 and has subsequently met for a total of six meetings.

Statement of the Issues

Members of the GWWG agreed that there is a valid need to increase the normal category weight limitation and that nine passengers is appropriate for the normal category rotorcraft passenger seat limitation. A nine-passenger seat limitation is consistent with the passenger seat limitation of normal category airplanes certificated under part 23. The decision to include a nine-passenger seat limitation to § 27.1 is not a new idea. Based on the results of FAA Public Meetings held in 1979 and 1980, NPRM 80–25 (45 FR 245, December 18, 1980) included a proposal to limit part 27 rotorcraft to nine passengers. This passenger seat limitation was not adopted in the final rule because there were no projections for rotorcraft with a maximum weight of 6,000 pounds or less to have more than nine passenger seats.

Considerable discussions during initial GWWG meetings concerned whether additional regulatory requirements should be promulgated to accommodate the increased maximum weight limitations. Although part 27 has always permitted rotorcraft to be certificated to carry up to nine passengers, the current weight limitation has limited practical designs to seven passengers. No normal category rotorcraft to date has been certified and manufactured to carry more than seven passengers. The proposed increase in maximum weight will allow the practical design and production of helicopters that will carry nine passengers. Several sections of part 27 were reviewed to evaluate the possible need for additional regulatory requirements to support this potential increase of two passengers.

The GWWG considered the possible need for additional regulatory requirements if the proposed change to part 27:

1. Related to safety for addition of passengers beyond 7;
2. Related to safety for increased weight; or
3. Resulted in little or no increase in cost or weight.

Based on these criteria, necessary changes were identified.

Industry estimates of the maximum weight necessary to accommodate nine passengers were in the range of 8,000 to 8,500 pounds. Nevertheless, the GWWG agreed to the new limit as 7,000 pounds based on several considerations. Increasing the limit to 7,000 pounds would address the problem of some current normal category rotorcraft remaining within the part 27 weight limitation while complying with the recent increases in part 27 regulatory requirements. In addition, the GWWG agreed that, with possible incorporation of technological advances, a 7,000-pound limit may be adequate to accommodate a nine-passenger capacity in the future.

The proposed additional regulatory requirements included here were prompted by this potential increase in passenger capacity. Therefore, the GWWG recommended a limit of seven passengers for previously certificated rotorcraft (regardless of maximum weight) unless the certification basis is revised and the rotorcraft complies with part 27 at the amendment level of this proposal. The GWWG also agreed that an applicant may apply for an amended or supplemental type certificate to increase maximum weight above 6,000 pounds without complying with this proposed amendment (other than §§ 27.1 and 27.2) provided that the

original seating capacity of the rotorcraft is not increased above that certificated on [insert date 30 days after date of publication of the final rule in the **Federal Register**].

The GWWG presented its recommendation to ARAC. The ARAC subsequently recommended that the FAA revise the normal category rotorcraft airworthiness standards. The Joint Aviation Authorities (JAA) proposes to harmonize the Joint Aviation Requirements (JAR) concurrently with this NPRM.

FAA Evaluation of ARAC Recommendation

The FAA has reviewed the ARAC recommendation and proposes that the maximum weight limitation be increased to 7,000 pounds and that a passenger seat limitation of nine be added to § 27.1

Section-by-Section Discussion of the Proposals

This NPRM contains proposals to amend part 27. The FAA proposes the following changes to accommodate an increase in the current maximum weight and passenger carrying capability. The proposal also includes additional safety standards identified as imposing little or no increase in cost or weight.

Section 27.1 Applicability

This proposal would revise § 27.1(a) to increase the current maximum weight from 6,000 to 7,000 pounds and to add a nine-passenger seat limitation for normal category rotorcraft. The increase in maximum weight is intended to compensate for increased weight resulting from additional regulatory requirements, particularly recent requirements intended to improve occupant survivability in the event of a crash.

Section 27.2 Special Retroactive Requirements

This proposal would add a new paragraph (b) to § 27.2 requiring compliance with the part 27 amendments, up to and including this amendment, at the time of application for any normal category rotorcraft for which certification for more than seven passengers is sought. This would only apply to changes in type design for already type certificated rotorcraft, since newly type certificated rotorcraft would be required to meet the current part 27 requirements. Additionally, the proposal would allow a previously certificated rotorcraft to exceed the 6,000-pound maximum weight limit provided that no increase in passenger capacity is sought beyond that for which the rotorcraft was certificated as of (insert date 30 days after date of publication of the final rule in the **Federal Register**). Compliance with all the requirements of the existing certification basis, plus any other amendments applicable to the change in type design, would have to be demonstrated at the increased maximum weight.

Section 27.610 Lightning and Static Electricity Protection

This proposal would add to § 27.610 the requirement to provide electrical bonding of all metallic components of the rotorcraft. Bonding is necessary to provide an electrical return path for grounded electrical systems, to minimize the accumulation of static charge, to minimize the risk of electric shock to occupants as well as service and maintenance personnel, and to minimize interference with the operation of electrical and avionic systems caused by lightning and the discharge of static electricity.

Section 27.805 Flight Crew Emergency Exits

This proposal would add a new § 27.805 requirement for flight crew emergency exits, similar to § 29.805, to facilitate rapid evacuation of the flight crew after an emergency ground or water landing.

Section 27.807 Passenger Emergency Exits

Section 27.807 would be revised to clarify the provisions on emergency exits to ensure that each passenger has ready access to an emergency exit on each side of the fuselage. The proposal also clarifies that normal-use doors may serve as emergency exits but must meet the requirements for emergency exits. This is not stated in the current rule. The proposal adds requirements that emergency exits must open from both inside and outside the rotorcraft and that opening the exit must not require exceptional effort.

Section 27.853 Compartment Interiors

This proposal enhances the requirements of § 27.853 for fire protection of compartment interiors by replacing the current provision that allows limited use of materials that are only flash resistant with a requirement that all materials be at least flame-resistant. This change is necessary to ensure safety in the larger passenger cabins and is consistent with the existing requirements for normal category airplanes.

Section 27.1027 Transmissions and Gearboxes: General

This proposal would add to § 27.1027 the requirement that the lubrication system for components of the rotor drive system (that require continuous lubrication) must be sufficiently independent of the engine lubrication system to ensure adequate lubrication during autorotation. This requirement already exists in § 29.1027(a)(2). The lubrication systems of the engines and of the rotor drive system are usually designed to be independent, but this independence is not specifically required by current regulations. This proposal would require sufficient independence to ensure adequate lubrication during autorotation.

Section 27.1185 Flammable Fluids

This proposal would add to § 27.1185 the requirement that absorbent materials be covered or treated to prevent absorption of hazardous quantities of flammable fluids when such materials are installed close to flammable fluid system components that might leak. This requirement is necessary to minimize fire hazards in rotorcraft that may have absorbent material for insulation of the passenger cabin, some of which will be adjacent to fuel or hydraulic fluid lines, and already exists in § 29.1185(d).

Section 27.1187 Ventilation and Drainage

This proposal would add to § 27.1187 a requirement for drainage of powerplant installation compartments. Section 27.1187 currently requires these compartments to be ventilated, but there is no requirement for them to be provided with drains as exists in § 29.1187(a)(1) and (2). Drainage of powerplant compartments is necessary to minimize fire hazards by ensuring that leakage of flammable fluids does not result in hazardous accumulations of those fluids near potential ignition sources.

Sections 27.1305 Powerplant Instruments and 27.1337 Powerplant Instruments

This proposal adds to §§ 27.1305 and 27.1337 a requirement that chip detectors fitted in the rotor drive system also provide an indication to the flight crew when magnetic particles are detected. The present rule requires a chip detector to be fitted in the rotor drive system but does not require an in-flight indication of magnetic particle detection to the flight crew. This proposal is necessary to provide early indications of drive system deterioration allowing appropriate flight crew

responses; this requirement exists in part 29. The proposal also adds a requirement that a means be provided to the flight crew to check the function of each chip detector electrical circuit so that proper function of the system can be easily determined.

Paperwork Reduction Act

There are no requirements for information collection associated with this proposed rule that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal Agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) would generate benefits that justify its costs and is not a ''significant regulatory action'' as defined in the Executive Order 12866, (2) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures, (3) would not have a significant impact on a substantial number of small entities, and (4) would lessen restraints on international trade. These analyses, available in the docket, are summarized below:

This proposed rule would impose no or negligible compliance costs on rotorcraft manufacturers or users because the proposed changes would codify current industry practices. In addition, it would eliminate an applicant's need to apply for an exemption to the maximum weight requirement for a future part 27 type certificate and thereby save between $10,000 and $18,000 in paperwork costs for each eliminated exemption application.

Safety benefits would arise as manufacturers develop new, heavier part 27 rotorcraft (that would be based on the most recent part 27 standards) to replace some older part 27 rotorcraft certificated to earlier standards. For example, these safety benefits would accrue to some Emergency Medical Service (EMS) operators. The increased weight would allow some EMS's to increase their fuel loads and effective ranges to carry all of the necessary medical equipment and passengers. The EMS's must now limit fuel loads and their effective ranges to remain under the current 6,000-pound maximum weight.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities. The proposed rule is expected to produce annualized incremental cost savings of $10,000 to $18,000 per applicant. While this would be beneficial to rotorcraft manufacturers, it would be unlikely to affect either the competitiveness or solvency of small businesses. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact

The proposed rule would not constitute a barrier to international trade, including the export of U.S. rotorcraft into the United States. Instead, the changes would maintain harmonized certification procedures of the FAA with those of the JAA and thereby have no appreciable effect on trade.

Federalism Implications

The proposed regulations 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 12866, October 4, 1993, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year.

List of Subjects in 14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 27 as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

2. Section 27.1(a) is revised to read as follows:

§ 27.1 Applicability.

(a) This part prescribes airworthiness standards for the issue of type certificates, and changes to those certificates, for normal category rotorcraft with maximum weights of 7,000 pounds or less and nine or less passenger seats.

* * * * *

3. Section 27.2 is amended by redesignating the introductory text and paragraphs (a), (b), (c), (d) introductory text, (d)(1), and (d)(2) as paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (a)(4) introductory text, and (a)(4)(i) and (a)(4)(ii), respectively.

§ 27.2 Special retroactive requirements.

* * * * *

(b) For rotorcraft with a certification basis established prior to (insert date 30 days after date of publication of the final rule in the **Federal Register**)—

(1) The maximum passenger seat capacity may be increased to eight or nine provided the applicant shows compliance with all the airworthiness requirements of this part in effect (insert date 30 days after date of publication of the final rule in the **Federal Register**).

(2) The maximum weight may be increased to greater than 6,000 pounds provided—

(i) The number of passenger seats is not increased above the maximum number previously certificated on [insert date 30 days after date of publication of the final rule in the **Federal Register**], or

(ii) The applicant shows compliance with all of the airworthiness requirements of this part in effect on [insert date 30 days after date of publication of the final rule in the **Federal Register**].

4. Section 27.610 is amended by revising the section heading and by adding paragraph (d) to read as follows:

§ 27.610 Lightning and static electricity protection.

* * * * *

(d) The electrical bonding and protection against lightning and static electricity must—

(1) Minimize the accumulation of electrostatic charge;

(2) Minimize the risk of electric shock to crew, passengers, and service and maintenance personnel using normal precautions;

(3) Provide an electrical return path, under both normal and fault conditions, on rotorcraft having grounded electrical systems; and

(4) Reduce to an acceptable level the effects of lightning and static electricity on the functioning of essential electrical and electronic equipment.

5. Section 27.805 is added to read as follows:

§ 27.805 Flight crew emergency exits.

(a) For rotorcraft with passenger emergency exits that are not convenient to the flight crew, there must be flight crew emergency exits, on both sides of the rotorcraft or as a top hatch, in the flight crew area.

(b) Each flight crew emergency exit must be of sufficient size and must be located so as to allow rapid evacuation of the flight crew. This must be shown by test.

(c) Each flight crew emergency exit must not be obstructed by water or flotation devices after an emergency landing on water. This must be shown by test, demonstration, or analysis.

6. Section 27.807 is revised to read as follows:

§ 27.807 Emergency exits.

(a) *Number and location.*

(1) There must be at least one emergency exit on each side of the cabin readily accessible to each passenger. One of these exits must be usable in any probable attitude that may result from a crash;

(2) Doors intended for normal use may also serve as emergency exits, provided that they meet the requirements of this section; and

(3) If emergency flotation devices are installed, there must be an emergency exit accessible to each passenger on each side of the cabin that is shown by test, demonstration, or analysis to:

(i) Be above the waterline; and

(ii) Open without interference from flotation devices, whether stowed or deployed.

(b) *Type and operation.* Each emergency exit prescribed by paragraph (a) of this section must—

(1) Consist of a movable window or panel, or additional external door, providing an unobstructed opening that will admit a 19- by 26-inch ellipse;

(2) Have simple and obvious methods of opening, from the inside and from the outside, which do not require exceptional effort;

(3) Be arranged and marked so as to be readily located and opened even in darkness; and

(4) Be reasonably protected from jamming by fuselage deformation.

(c) *Tests.* The proper functioning of each emergency exit must be shown by test.

(d) *Ditching emergency exits for passengers.* If certification with ditching provisions is requested, the markings required by paragraph (b)(3) of this section must be designed to remain visible if the rotorcraft is capsized and the cabin is submerged.

§ 27.853 [Amended]

7. Section 27.853 is amended in paragraph (a) by removing the word ''flash'' and inserting the word ''flame'' in its place and by removing and reserving paragraph (b).

8. Section 27.1027 is amended by redesignating paragraphs (a) through (d) as paragraphs (b) through (e); in redesignated paragraph (c)(2), by removing ''(b)(3)'' and adding ''(c)(3)'' in its place; in redesignated paragraph (d), by removing ''(b)'' each place it appears and adding ''(c)''; and by adding a new paragraph (a) to read as follows:

§ 27.1027 Transmissions and gearboxes: General.

(a) The lubrication system for components of the rotor drive system that require continuous lubrication must be sufficiently independent of the lubrication systems of the engine(s) to ensure lubrication during autorotation.

* * * * *

9. In § 27.1185, a new paragraph (d) is added to read as follows:

§ 27.1185 Flammable fluids.

* * * * *

(d) Absorbent materials close to flammable fluid system components that might leak must be covered or treated to prevent the absorption of hazardous quantities of fluids.

10. Section 27.1187 is revised to read as follows:

§ 27.1187 Ventilation and drainage.

Each compartment containing any part of the powerplant installation must have provision for ventilation and drainage of flammable fluids. The drainage means must be—

(a) Effective under conditions expected to prevail when drainage is needed, and

(b) Arranged so that no discharged fluid will cause an additional fire hazard.

11. In § 27.1305, paragraph (v) is added to read as follows:

§ 27.1305 Powerplant instruments.

* * * * *

(v) Warning or caution devices to signal to the flight crew when ferromagnetic particles are detected by the chip detector required by § 27.1337(e).

12. Section 27.1337(e) is revised to read as follows:

§ 27.1337 Powerplant instruments.

* * * * *

(e) Rotor drive system transmissions and gearboxes utilizing ferromagnetic materials must be equipped with chip detectors designed to indicate the presence of ferromagnetic particles resulting from damage or excessive wear. Chip detectors must—

(1) Be designed to provide a signal to the device required by § 27.1305(v); and be provided with a means to allow crewmembers to check, in flight, the function of each detector electrical circuit and signal.

(2) [Reserved]

Issued in Washington, DC, on June 9, 1998.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 98–15961 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116608–97]

RIN 1545–AV61

EIC Eligibility Requirements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations pertaining to the eligibility requirements for certain taxpayers denied the earned income credit (EIC) as a result of the deficiency procedures. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by September 23, 1998. Requests to speak (with outlines of oral comments) at a public hearing scheduled for Wednesday, October 21, 1998, must be received by September 30, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–116608–97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–116608–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karin Loverud, 202–622–6060; concerning submissions or the hearing, LaNita VanDyke, 202–622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by August 24, 1998. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in § 1.32–3. This information is required to conform with the statute and to permit the taxpayer to claim the EIC. This information will be used by the IRS to determine whether the taxpayer is entitled to claim the EIC. The collection of information is mandatory. The likely respondents are individuals.

The burden is reflected in the burden of Form 8862.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** add § 1.32–3T to the Income Tax Regulations.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the underlying statute applies only to individuals. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, October 21, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by September 23, 1998, and want to present oral comments at the hearing must submit, not later than September 30, 1998, an outline of the topics to be discussed and the time to be devoted to each topic. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.32–3 is added to read as follows:

§ 1.32–3 Eligibility requirements.

[The text of this proposed section is the same as the text of § 1.32–3T published elsewhere in this issue of the **Federal Register**].

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–16853 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104641–97]

RIN 1545–AV48

Equity Options Without Standard Terms; Special Rules and Definitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations providing guidance on the application of the rules governing qualified covered calls. The new rules address concerns that were created by the introduction of new financial instruments after the enactment of the qualified covered call rules. The proposed regulations will provide guidance to taxpayers holding qualified covered calls. This document also provides notice of public hearing on these proposed regulations.

DATES: Written comments must be received by September 23, 1998. Requests to speak (with outlines of oral comments) at the public hearing scheduled for November 4, 1998, must be submitted by October 14, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–104641–97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–104641–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Pamela Lew, (202) 622–3950; concerning submissions and the hearing, Michael L. Slaughter, Jr., (202) 622–7190, (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 1092(c) defines a straddle as offsetting positions with respect to personal property. Under section 1092(d)(3), stock is personal property if the stock is part of a straddle that involves an option on that stock or substantially identical stock or securities. Under section 1092(c)(4), however, writing a qualified covered call option and owning the optioned stock is not treated as a straddle for purposes of section 1092.

The special treatment for qualified covered calls was created because Congress believed that, in certain limited circumstances, a taxpayer who grants a call option does not substantially reduce his or her risk of loss with respect to the optioned stock. Congress established a mechanical test to determine whether a written call option could substantially reduce a taxpayer s risk of loss and, therefore, should be subject to treatment as one leg of a straddle. In order to be classified as a qualified covered call under this test, a call option must, among other things, be exchange-traded and not be deep in the money.

Section 1092(c)(4)(C) defines a deep-in-the-money option as an option whose strike price is lower than an allowed bench mark. Under section 1092(c)(4)(D), this bench mark is generally the highest available strike price for an option that is less than the applicable stock price, as defined in section 1092(c)(4)(G). The Internal Revenue Code provides other bench marks under specified circumstances.

At the time the qualified covered call definition was written, listed options were available only at standardized maturity dates and strike price intervals. This fixed-interval system was a basic assumption of the Congressional plan for qualified covered calls and, more specifically, was the foundation for the definition of a deep-in-the-money option.

Certain options exchanges have begun to trade put and call equity options with flexible terms. The terms that are flexible include strike price, expiration date, and exercise style (that is, American, European, or capped). Except

as noted below, the strike price is denominated in the smallest interval available on the options exchanges, which is currently ⅛ of one dollar. To minimize the market impact of options contract expirations, equity options with flexible terms may not expire within 2 business days of equity options with standardized terms. Equity options with flexible terms are generally intended for institutional and other large investors.

Questions have been raised as to whether the strike prices established by equity options with flexible terms might establish the lowest qualified benchmark under section 1092(c)(4)(D) for all equity options, including those with standardized terms. The following example illustrates this concern. If a stock is currently selling for $62, equity options with flexible terms and option periods of not more than 90 days could have a strike price of $61 ⅞. If the strike prices from equity options with flexible terms were taken into account in determining if a 90-day equity option with standardized terms is deep in the money, any option being sold for less than $61 ⅞ would be deep in the money. Because the strike prices for an equity option with standardized terms are set in $5 intervals, the highest strike price less than the current selling price for an equity option with standardized terms would be $60. Thus, any in-the-money equity option on the stock that had standardized terms would be deep in the money (for purposes of section 1092(c)(4)).

Explanation of Provisions

The proposed regulations provide that the strike prices established by equity options with flexible terms are not taken into account in determining whether equity options that are not equity options with flexible terms are deep in the money. Thus, the existence of strike prices established for equity options with flexible terms does not affect the lowest qualified bench mark, as determined under section 1092(c)(4)(D), for an equity option with standardized terms. The proposed regulations define equity options with flexible terms as those equity options described in certain specified SEC releases, including any changes approved by the SEC to these releases.

The regulations will allow some taxpayers, primarily institutional and other large investors, to engage in certain exchange-based transactions that are currently unavailable to them and will permit other investors to continue doing business under section 1092 without regard to the existence of the institutional product.

The proposed regulations do not address whether an equity option with flexible terms is eligible for qualified covered call treatment under section 1092(c)(4). Comments are requested on the following issues: (1) whether equity options with flexible terms should be eligible for qualified covered call treatment under section 1092(c)(4); (2) whether there should be uniform rules governing the bench marks for equity options with flexible terms and standardized options; and (3) if uniform rules are not appropriate, what bench marks should apply to equity options with flexible terms.

Proposed Effective Date

These regulations apply to equity options with flexible terms entered into on or after the date that the Treasury Decision adopting these rules as final regulations is published in the **Federal Register**.

Special Analyses

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, November 4, 1998, beginning at 10:00 a.m. The hearing will be held in Room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by September 23, 1998 and submit an outline of topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 14, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Pamela Lew, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1092(c)–1 also issued under 26 U.S.C. 1092(c)(4)(H). * * *

Par. 2. Section 1.1092(c)–1 is added to read as follows:

§ 1.1092(c)–1 Equity options with flexible terms.

(a) *Effect on lowest qualified bench mark for other options.*

The existence of strike prices established by equity options with flexible terms does not affect the determination of the lowest qualified bench mark, as defined in section 1092(c)(4)(D), for any option that is not an equity option with flexible terms.

(b) *Definitions.* For purposes of this section:

(1) *Equity option with flexible terms* means an equity option—

(i) That is described in the following Securities Exchange Act Releases—

(A) Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Equity Options on Specified Equity Securities, Securities

Exchange Act Release No. 34–36841 (Feb. 21, 1996); or

(B) Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing of Flexible Equity Options on Specified Equity Securities, Securities Exchange Act Release No. 34–37336 (June 27, 1996); or

(C) Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2, 4 and 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Traded Equity and Index Options, Securities Exchange Act Release No. 34–39549 (Jan. 23, 1998); or

(D) Any changes to the SEC releases described in paragraphs (b)(1)(i)(A) through (C) of this section that are approved by the Securities and Exchange Commission; or

(ii) That is traded on any national securities exchange which is registered with the Securities and Exchange Commission (other than those described in the SEC Releases set forth in paragraph (b)(1)(i) of this section) or other market which the Secretary determines has rules adequate to carry out the purposes of section 1092 and is—

(A) Substantially identical to the equity options described in paragraph (b)(1)(i) of this section; and

(B) Approved by the Securities and Exchange Commission in a Securities Exchange Act Release.

(2) *Securities Exchange Act Release* means a release issued by the Securities and Exchange Commission. To determine identifying information for releases referenced in paragraph (b)(1) of this section, including release titles, identification numbers, and issue dates, contact the Office of the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. To obtain a copy of a Securities Exchange Act Release, submit a written request, including the specific release identification number, title, and issue date, to Securities and Exchange Commission, Attention Public Reference, 450 5th Street, NW., Washington, DC 20549.

(c) *Effective date.* These regulations apply to equity options with flexible terms entered into on or after the date that the Treasury Decision adopting these regulations is published in the **Federal Register**.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–16848 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 048–1048b; FRL–6113–2]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the state of Iowa. These revisions are necessary to meet the requirements of the Clean Air Act (Act) and the Code of Federal Regulations and to improve the state's permitting program. These revisions will strengthen the SIP with respect to attainment and maintenance of established air quality standards and with respect to control of hazardous air pollutants.

In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 27, 1998.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Authority: 42 U.S.C. 7401 et seq.

Dated: May 26, 1998.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 98–16796 Filed 6–24–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 18

[ET Docket 98–80; FCC 98–102]

Conducted Emission Limits

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: By this *Notice of Inquiry*, the Commission is reviewing the conducted emission limits. This action is taken by the Commission, on its own motion, as part of an ongoing program of regulatory review. It is intended to examine whether these regulations continue to be necessary, and if so, whether any changes to the limits may be appropriate.

DATES: Comments are due July 27, 1998. Reply comments are due August 10, 1998.

FOR FURTHER INFORMATION CONTACT: Office of Engineering and Technology, Anthony Serafini at (202) 418–2456.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Inquiry*, ET Docket No. 98–80, adopted May 29, 1998 and released June 8, 1998. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Notice of Inquiry

1. Many radio frequency devices obtain their electrical energy from the AC power line (i.e., 110 volt household electrical line). Such devices include personal computers, personal computer peripherals, TV and FM receivers, video cassette recorders, cordless telephone base stations, wireless security alarm systems, RF lighting devices, microwave ovens, induction cooking ranges and ultrasonic equipment. The radio

frequency energy that these devices generate can be conducted back onto the AC power line. The conducted radio frequency energy can cause interference to radio communications via two possible paths. First, the radio frequency energy may be carried along the electrical wiring to another device that is also connected to the electrical wiring. Second, the AC electrical wiring can act as an antenna to radiate signals over the airwaves. At frequencies below 30 MHz, where wavelengths are greater than 10 meters, the long stretches of electrical wiring can act as very efficient antennas. Further, the signals radiating onto the airwaves can cause interference to operations at considerable distances because propagation losses are low at these frequencies.

2. Parts 15 and 18 of the rules control the potential for such interference by limiting the levels of RF voltage that devices may conduct onto the AC power line. Part 15 of the Commission's rules specifies conducted emissions limits for radio frequency devices, including unintentional and intentional radiators. Part 18 specifies conducted emissions limits for industrial, scientific, and medical (ISM) equipment. Industrial, scientific and medical equipment is equipment or appliances designed to generate and use locally RF energy for industrial, scientific, medical, domestic or similar purposes, excluding applications in the field of telecommunication. Compliance is usually determined by connecting the device to a line impedance stabilization network, or LISN, which allows measurement of RF voltage under standard conditions. Most products are subject to conducted emissions limits that cover the frequency range 450 kHz to 30 MHz. The sole exception is induction cooking ranges, which are subject to conducted emissions limits beginning at 10 kHz because these products generate high levels of radio emissions at very low frequencies.

3. Certain devices or systems use carrier current techniques to deliberately couple RF energy to the AC electrical wiring for purposes of communication. Many AM campus radio systems use carrier current technology. Electrical utilities often use carrier current technology for monitoring and control of the electrical grid. A variety of devices intended for home use, such as intercom systems and remote controls for electrical appliances and lamps, also use carrier current technology. Interference from carrier current systems is controlled primarily by requiring compliance with radiated emissions limits. These standards provide system operators and equipment manufacturers the flexibility they need to adjust the signal levels they couple to the electrical wiring to take into account local variations, such as differences in impedance and layout of the wiring. Carrier current systems that contain their fundamental emission within the standard AM broadcast band of 535–1705 kHz and are intended to be received using standard AM broadcast receivers have no limit on conducted emissions. All other carrier current systems are subject to a conducted emission limit only within the AM broadcast band.

4. By this action, the Commission is reviewing the conducted emissions limits in Parts 15 and 18 of the Commission's rules. The conducted emissions limits control the levels of radio frequency (RF) voltage that equipment may conduct onto the (AC) power line. The purpose of these limits is to protect against interference to radio services operating below 30 MHz. The Commission is initiating this proceeding on its own motion as part of an ongoing program of regulatory review. The conducted emissions limits apply to a wide variety of products, including various consumer electronic devices and radio transmitters. We seek to examine whether these regulations continue to be necessary, and if so, whether any changes to the limits may be appropriate. In this regard, we seek information as to the costs of complying with these regulations. We are also interested in determining whether the regulations may impede new technologies. Further, we will examine our general regulations for carrier current systems. Upon review of the responses to this inquiry, we will determine whether to propose any changes to these regulations.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–16628 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–87; RM–9278]

Radio Broadcasting Services; Kaycee, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 222C1 at Kaycee, Wyoming, as the community's first local aural transmission service. Channel 222C1 can be allotted to Kaycee in compliance with the Commission's minimum distance separation requirements with a site restriction of 38.9 kilometers (24.2 miles) southwest to avoid short-spacings to the licensed site of Station KLZY(FM), Channel 223C, Powell, Wyoming, and to the application site for Channel 222C at Rapid City, South Dakota. The coordinates for Channel 222C1 at Kaycee are North Latitude 43–27–55 and West Longitude 106–58–40.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 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: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, 7901 Stoneridge Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–87, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16925 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–88; RM–9285]

Radio Broadcasting Services; Wright, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 268C at Wright, Wyoming, as the community's first local aural transmission service. Channel 268C can be allotted to Wright in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.5 kilometers (2.8 miles) east to avoid a short-spacing to the application site for Channel 269C1, Thermopolis, Wyoming. The coordinates for Channel 268C at Wright are North Latitude 43–45–08 and West Longitude 105–26–33.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, 7901 Stoneridge Drive, Cheyenne, WY 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–88, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16924 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–89; RM–9279]

Radio Broadcasting Services; Hanna, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 277C at Hanna, Wyoming, as the community's first local aural transmission service. Channel 277C can be allotted to Hanna in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.5 kilometers (3.4 miles) south to avoid a short-spacing to the construction permit site for Station KQLT(FM), Channel 279C, Casper, Wyoming. The coordinates for Channel 277C at Hanna North Latitude 41–49–13 and West Longitude 106–34–54.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, 7901 Stoneridge Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–89, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16923 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–90; RM–9270]

Radio Broadcasting Services; Dayton, WA and Weston, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dayton Broadcasting Company proposing the substitution of Channel 270C2 for Channel 272A at Dayton, Washington, the reallotment of Channel 270C2 from

Dayton to Weston, Oregon, and the modification of Station KZZM(FM)'s license accordingly. Channel 270C2 can be allotted to Weston, Oregon, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 270C2 at Weston are North Latitude 45–47–12 and West Longitude 118–15–46. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 270C2 at Weston, or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 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: Robert Lewis Thompson, Esq., Taylor, Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, Virginia 22314 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–90, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16922 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–86; RM–9284]

Radio Broadcasting Services; Wamsutter, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 266C at Wamsutter, Wyoming, as the community's first local aural transmission service. Channel 266C can be allotted to Wamsutter in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.1 kilometers (13.1 miles) southeast to avoid a short-spacing to the licensed site of Station KPIN(FM), Channel 266A, Pinedale, Wyoming. The coordinates for Channel 266C at Wamsutter are North Latitude 41–32–17 and West Longitude 107–47–30.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, 7901 Stoneridge Drive, Cheyenne, Wyoming 82009 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–86, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16921 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–85; RM–9286]

Radio Broadcasting Services; Meeteetse, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Windy Valley Broadcasting proposing the allotment of Channel 273C at Meeteetse, Wyoming, as the community's first local aural transmission service. Channel 273C can be allotted to Meeteetse in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 273C at Meeteetse are North Latitude 44–09–24 and West Longitude 108–52–24.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, McLean, Virginia 22102–3807 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–85, adopted June 3, 1998, and released June 12, 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 Service, 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. 98–16920 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–75, RM–9264]

Radio Broadcasting Services; Pauls Valley and Healdton, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Wright & Wright, Inc. seeking the reallotment of Channel 249C3 from Pauls Valley, OK, to Healdton, OK, as the community's first or second local aural service, and the modification of Station KGOK's license to specify Healdton as its community of license. Channel 249C3 can be allotted to Healdton in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.6 kilometers (4.1 miles) north, at coordinates 34–17–28 North Latitude; 97–29–23 West Longitude, to accommodate petitioner's desired transmitter site.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 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: Robert Lewis Thompson, Taylor Thiemann & Aitkin, L.C., 908 King Street, Suite 300, Alexandria, VA 22314 (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. 98–75, adopted May 20, 1998, and released June 12, 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. 98–16919 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–107; RM–9023]

Radio Broadcasting Services; Potts Camp and Saltillo, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: This document denies a petition for rule making filed by Olvie E. Sisk, licensee of Station WCNA(FM), Channel 240C3, Potts Camp, Mississippi, requesting the reallotment of Channel 240C3 from Potts Camp to Saltillo, Mississippi, and modification of the license for Station WCNA(FM), accordingly. *See* 62 FR 15871, April 3, 1997. The reallotment proposal is denied as it would remove the sole local service at Potts Camp, Mississippi. With this action, the proceeding is terminated.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–107, adopted June 3, 1998, and released June 19, 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, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

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. 98–16916 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–83, RM–9280]

Radio Broadcasting Services; Questa, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Metro Broadcasters-Texas, Inc. seeking the allotment of Channel 279C1 to Questa, NM, as the community's first local aural service. Channel 279C1 can be allotted to Questa in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) southeast, at coordinates 36–40–33 NL; 105–32–27 WL, to avoid a short-spacing to both the allotment reference coordinates and the transmitter site specified in the pending application of Idaho Broadcasting Consortium, Inc. (BPH–971126MD), for Channel 279C2 at Silverton, Colorado.

DATES: Comments must be filed on or before August 3, 1998, and reply comments on or before August 18, 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: Andrew S. Kersting, Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, 11th Floor, Arlington, VA 22209–3801 (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. 98–83, adopted May 27, 1998, and released June 12, 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. 98–16915 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 567

[Docket No. NHTSA–98–3902]

RIN 2127–AG65

Vehicle Certification; Contents of Certification Labels for Multipurpose Passenger Vehicles and Light Duty Trucks

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend NHTSA's regulations on vehicle certification that specify the contents of the certification labels that manufacturers are required to affix to new motor vehicles. The amendment would require the certification label for multipurpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 6,000 pounds or less to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. Under the existing regulations, the certification labels on these vehicles need only state that the vehicles comply with all applicable Federal motor vehicle safety standards. The proposed amendment would conform the certification requirements to legislation making the theft prevention standard applicable to MPVs and trucks rated at 6,000 pounds or less.

DATES: *Comments.* Comments must be received on or before August 10, 1998. If adopted, the proposed amendment would apply to MPVs and trucks with a GVWR of 6,000 pounds or less that are manufactured on or after January 1, 1999.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are 10:00 am to 5 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (202–366–5238).

SUPPLEMENTARY INFORMATION: In June 1996, NHTSA received a letter from American Honda Motor Co., Inc. (Honda) seeking clarification of certain vehicle certification requirements in 49 CFR Part 567. The letter noted that section 567.4(g)(5)(ii) of those regulations requires the certification label on 1987 and subsequent model year passenger cars manufactured on or after April 24, 1986, to state that the vehicle ''conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards in effect on the date of manufacture * * *.'' Honda's letter further noted that under a provision of the Anti Car Theft Act of 1992 now codified at 49 U.S.C. 33101, the definition of vehicles subject to the major parts marking requirements of the theft prevention standard was expanded to include ''a multi-purpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' This prompted Honda to observe that the language prescribed for certification labels at 49 CFR 567.4(g)(5) may have to be amended to reflect these vehicles' conformity with the theft prevention standard.

In its response to Honda's letter, NHTSA noted that although the Anti Car Theft Act of 1992 contains no explicit requirement for such an amendment to the vehicle certification regulations, the agency agreed that this amendment should be made so that the certification requirements for MPVs and trucks with a GVWR of 6,000 pounds or less are consistent with those in sections 567.4(g)(5)(i) and (ii) that apply specifically to passenger cars.

Accordingly, NHTSA is proposing to amend the certification regulations to require the certification label for MPVs and trucks with a GVWR of 6,000 pounds or less to specify that the vehicle complies with all applicable Federal motor vehicle safety and theft prevention standards. So that affected manufacturers have adequate lead time to exhaust their existing inventory of certification labels and have new labels printed, if the proposed amendment is adopted, this requirement would apply to vehicles manufactured on or after January 1, 1999.

Rulemaking Analyses and Notices

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

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

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities. Motor vehicle manufacturers who are likely to be affected by the proposed amendment typically would not qualify as small entities. This amendment would also have no effect on small businesses, small organizations, and small governmental units. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

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

4. National Environmental Policy Act

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

5. Civil Justice Reform

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

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

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

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

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

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

List of Subjects in 49 CFR Part 567

Labeling, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, the agency proposes to amend § 567.4, *Requirements for manufacturers of motor vehicles,* in Title 49 of the Code of Federal Regulations at Part 567 as follows:

PARTS 567—[AMENDED]

1. The authority citation for Part 567 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, and 30115, 30117, 30166, 32502, 32504, 33101–33104, and 33109; delegation of authority at 49 CFR 1.50

2. Section 567.4 would be amended by adding a new paragraph (g)(5)(iii), to read as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(g) * * *

(5) * * *

(iii) In the case of multipurpose passenger vehicles (MPVs) and trucks with a GVWR of 6,000 pounds or less manufactured on or after January 1, 1999, the expression ''and theft prevention'' shall be included in the statement following the word ''safety''.

* * * * *

Issued: June 19, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–16849 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 980602143–8143–01; I.D. 040197B]

RIN 0648–AI99

High Seas Fishing Compliance Act

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement vessel identification and reporting requirements under the High Seas Fishing Compliance Act (HSFCA). This rule would require vessels with permits issued under the HSFCA to be marked for identification purposes and to report their catches and effort when fishing on the high seas. This action is necessary to comply with the HSFCA.

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

ADDRESSES: Send comments on the proposed rule and on the collection-of-information requirements to Gary C.

Matlock, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910. Also send comments on the collection-of-information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget; Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, (301) 713–2337.

SUPPLEMENTARY INFORMATION: The HSFCA (16 U.S.C. 5501 *et seq.*), among other things, implements the United Nations Food and Agriculture Organization (FAO) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Agreement) and requires that U.S. vessels fishing on the high seas possess a permit issued under the HSFCA. As used in the HSFCA, the term ''high seas'' means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States. Additional information on the Agreement and the HSFCA is published at 61 FR 11751, March 22, 1996, and 61 FR 35548, July 5, 1996.

Regulations at 50 CFR part 300, subpart B, govern permit application and issuance procedures under the HSFCA. NMFS is proposing to amend these regulations to include provisions for vessel identification and reporting requirements.

Pursuant to guidance contained in the HSFCA, NMFS is attempting to minimize duplication of reporting requirements and to ensure that, to the extent practicable, the proposed regulations are consistent with regulations implementing fishery management plans (FMPs) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Additionally, NMFS proposes to ensure that regulations implementing HSFCA vessel identification and reporting requirements are, to the extent practicable, consistent with regulations implementing other Federal fishery management statutes (e.g., regulations implementing the Antarctic Marine Living Resources Convention Act).

The HSFCA prescribes that licensed U.S. vessels operating on the high seas be marked (1) in accordance with regulations issued under the Magnuson-Stevens Act to implement a FMP, or (2) in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels. NMFS proposes that vessels operating on the high seas with a permit issued under the HSFCA be considered appropriately marked for purposes of identification if marked in accordance with either of the preceding manners of marking. NMFS also proposes to consider vessels marked in accordance with regulations implementing other Federal fishery management statutes as appropriately marked for purposes of the HSFCA.

The HSFCA also prescribes that permit holders be required to report their catches on the high seas.

NMFS has identified three groups of vessel operators that fish, or have the potential to fish, on the high seas under the HSFCA. The first group consists of vessel operators already required to report their catch and effort when on the high seas based on existing reporting requirements in regulations under the Magnuson-Stevens Act or other Federal fishery management statutes. NMFS proposes to consider such operators in compliance with HSFCA reporting requirements if they continue to maintain and submit such logs as may be required by regulations promulgated under the Magnuson-Stevens Act or other Federal fishery management statutes. There will be no requirement for vessels already appropriately reporting their catch and effort on the high seas to maintain a separate high seas log.

The second group consists of operators of vessels with HSFCA permits that participate in the albacore fishery of the Pacific Ocean. Vessel operators in this fishery have had the option of participating in a voluntary reporting system to record their catch and effort by using the ''U.S. Pacific Albacore Logbook,'' which has been available since 1961 through the NMFS Southwest Regional Office and the NMFS Southwest Fisheries Science Center. A valuable time series of data on the fishery has been amassed over the years. NMFS proposes that the log used in the voluntary reporting system be the mandatory log for reporting catch and effort on the high seas by all operators of HSFCA-permitted vessels in the albacore fisheries. This action will maintain some continuity of the database developed under the voluntary system and will avoid the potential for a duplicative reporting requirement.

The third group consists of all other operators of vessels licensed under the HSFCA who fish on the high seas (i.e., who will not be reporting their catch and effort on the high seas based on existing regulations or the ''U.S. Pacific Albacore Logbook''). NMFS proposes that these vessel operators use gear-specific logs, to be available from NMFS Regional Administrators, to report their catch and effort on the high seas. These logs will collect the basic information typically collected for each gear type. Logs have been prepared to record catches on the high seas for the following gear types: Longline/gillnet, purse seine, troll/pole and line, trawl, trap, mothership and ''other.'' Samples of the logs are available from NMFS (see **ADDRESSES**). The actual logs will be available from the Regional Administrator of the NMFS Regional Office from which a vessel's HSFCA permit was issued.

NMFS also proposes to revise the existing regulations to clarify the conditions under which a U.S. vessel is eligible for a permit and the scope of permit sanction authority under the HSFCA.

Operators of U.S. vessels fishing on the high seas are reminded of their responsibility under the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) to report all incidental injuries and mortalities of marine mammals that occur as a result of commercial fishing operations. MMPA reporting forms and additional information about the MMPA can be obtained through NMFS Regional Offices.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. It is estimated this action will affect approximately 5 percent of HSFCA permit holders at a total annual cost of $7,600.00. Neither the agency standard for ''substantial number of small entities'' nor any of the agency criteria for ''significant economic impact'' are met. As a result, a regulatory flexibility analysis was not prepared.

This rule contains two collection-of-information requirements subject to the Paperwork Reduction Act. These collection-of-information requirements have been submitted to the Office of Management and Budget for approval.

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

Reduction Act unless that collection-of-information displays a currently valid OMB control number.

The first collection-of-information requirement is the vessel marking requirement. The burden of this collection of information is estimated to be about 45 minutes per year for each vessel not already marked for identification purposes in accordance with the implementing regulations of a FMP or Federal fishery management statute. The second collection-of-information requirement is the requirement for vessels not otherwise required to report high seas catches and effort to report such catches and effort. The burden of this collection of information is estimated to be an average of 3 minutes per day. Send comments regarding these burden estimates or any other aspect of the collection-of-information, including suggestions for reducing this burden, to Gary C. Matlock, NMFS, or to the Office of Information and Regulatory Affairs, OMB (see **ADDRESSES**).

Public comment is sought regarding: Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 50 CFR Part 300

Exports, Fisheries, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: June 18, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for subpart B continues to read as follows:

Authority: 16 U.S.C. 5501 *et seq.*

2. In § 300.13, paragraph (a)(1) introductory text is revised to read as follows:

§ 300.13 Vessel permits.

(a) * * *

(1) Any high seas fishing vessel of the United States is eligible to receive a permit under this subpart, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and —

* * * * *

3. In § 300.14, the section heading is revised, and text is added to read as follows:

§ 300.14 Vessel identification.

(a) *General.* A vessel permitted under this subpart must be marked for identification purposes in accordance with this section.

(b) *Marking.* Vessels must be marked either:

(1) In accordance with vessel identification requirements specified in Federal fishery regulations issued under the Magnuson-Stevens Act or under other Federal fishery management statutes; or

(2) In accordance with the following identification requirements:

(i) A vessel must be marked with its IRCS, or, if not assigned an IRCS, must be marked (in order of priority) with its Federal, state, or other documentation number appearing on its high seas fishing permit;

(ii) The markings must be displayed at all times on the vessel's side or superstructure, port and starboard, as well as on a deck;

(iii) The markings must be placed so that they do not extend below the waterline, are not obscured by fishing gear, whether stowed or in use, and are clear of flow from scuppers or overboard discharges that might damage or discolor the markings;

(iv) Block lettering and numbering must be used;

(v) The height of the letters and numbers must be in proportion to the size of the vessel as follows: for vessels 25 meters (m) and over in length, the height of letters and numbers must be not less than 1.0 m; for vessels 20 m but less than 25 m in length, the height of letters and numbers must be not less than 0.8 m; for vessels 15 m but less than 20 m in length, the height of letters and numbers must be not less than 0.6 m; for vessels 12 m but less than 15 m in length, the height of letters and numbers must be not less than 0.4 m; for vessels 5 m but less than 12 m in length, the height of letters and numbers must be not less than 0.3 m; and for vessels under 5 m in length, the height of letters and numbers must be not less than 0.1 m;

(vi) The height of the letters and numbers to be placed on decks must be not less than 0.3 m;

(vii) The length of the hyphen(s), if any, must be half the height (h) of the letters and numbers;

(viii) The width of the stroke for all letters, numbers and hyphens must be h/6;

(ix) The space between letters and/or numbers must not exceed h/4 nor be less than h/6;

(x) The space between adjacent letters having sloping sides must not exceed h/8 nor be less than h/10;

(xi) The marks must be white on a black background, or black on a white background;

(xii) The background must extend to provide a border around the mark of not less than h/6; and

(xiii) The marks and the background must be maintained in good condition at all times.

4. In § 300.15, paragraph (c) is added to read as follows:

§ 300.15 Prohibitions.

* * * * *

(c) Use a high seas fishing vessel on the high seas that is not marked in accordance with section 300.14.

5. In § 300.16, the section is revised to read as follows:

§ 300.16 Penalties.

(a) Any person, any high seas fishing vessel, the owner or operator of such vessel, or any person who has been issued or has applied for a permit, found to be in violation of the Act, this subpart, or any permit issued under this subpart will be subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions prescribed by the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws.

(b) Permits under this subpart may be subject to permit sanctions prescribed by the Act, 15 CFR part 904 (Civil Procedures), and other applicable laws if any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a permit under any fishery resource statute enforced by the Secretary, has not been paid and is overdue.

6. In § 300.17, the section heading is revised, and text is added to read as follows:

§ 300.17 Reporting.

(a) *General.* The operator of any vessel permitted under this subpart must report high seas catch and effort information to the NMFS in a manner set by this section. Reports must include: identification information for vessel and operator; operator signature;

crew size; whether an observer is aboard; target species; gear used; dates, times, locations, and conditions under which fishing was conducted; species and amounts of fish retained and discarded; and details of any interactions with sea turtles or birds.

(b) *Reporting options*. (1) For the following fisheries, a permit holder must maintain and submit the listed reporting forms to the appropriate address and in accordance with the time limits required by the relevant regulations:

(i) Antarctic—CCAMLR Logbook (50 CFR 300.107);

(ii) Atlantic—Fishing Vessel Log Reports (50 CFR 648.7(b));

(iii) Atlantic Pelagic Longline—Longline Logbook (50 CFR 630.5);

(iv) Atlantic Purse Seine—Purse Seine Logbook (50 CFR 285.54);

(v) Pacific Pelagic Longline—Longline Logbook (50 CFR 660.14(a));

(vi) Eastern Pacific Purse Seine—IATTC Logbook (50 CFR 300.22); or

(vii) Western Pacific Purse Seine—South Pacific Tuna Treaty Logbook (50 CFR 300.34).

(2) For the albacore troll fisheries in the North and South Pacific, a permit holder must report high seas catch and effort by maintaining and submitting the log provided by the Regional Administrator, Southwest Region, NMFS.

(3) For other fisheries, a permit holder must report high seas catch and effort by maintaining and submitting records, specific to the fishing gear being used, on forms provided by the Regional Administrator of the NMFS Region which issued the permit holder's HSFCA permit.

(c) *Confidentiality of statistics*. Information submitted pursuant to this subpart will be treated in accordance with the provisions of 50 CFR part 600 of this title.

[FR Doc. 98–16787 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 122
Thursday, June 25, 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

Animal and Plant Health Inspection Service

[Docket No. 98–066–1]

Horse Protection Certified Designated Qualified Person (DQP) Programs and Licensed DQP's

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the general public and the horse industry of the Designated Qualified Person (DQP) programs currently certified by the Department of Agriculture, and the currently licensed DQP's under each certified program.

FOR FURTHER INFORMATION CONTACT: Dr. Dick Watkins, Initiatives Coordinator, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–7712; or e-mail: ace@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: The practice known as ''soring'' is the causing of suffering in show horses to affect their performance in the show ring. In 1970, Congress passed the Horse Protection Act (15 U.S.C. 1821–1831), referred to below as the Act, to eliminate the practice of soring by prohibiting the showing or selling of sored horses. Exercising our rulemaking power under the Act, we issued regulations at 9 CFR part 11, referred to below as the regulations, that prohibit devices and methods that might sore horses.

In 1979, in response to an amendment to the Act, we established regulations under which show management must, to avoid liability for any sore horses that are shown, appoint individuals trained to conduct preshow inspections to detect or diagnose sored horses. The individuals, referred to as Designated Qualified Persons (DQP's), are trained and licensed under industry sponsored DQP programs that we certify and monitor. The requirements for DQP programs and licensing of DQP's are set forth in § 11.7 of the regulations.

Section 11.7 also requires that, at least once each year, we publish in the **Federal Register** a current list of certified DQP programs and licensed DQP's. Following is that list:

Heart of America Walking Horse Association, Route 2, Box 6B, Barry, IL 62312
Licensed DQP's: Chadwick Campbell, Jennifer Campbell, Larry Carriger, William H. Cox, A.L. Fogey, Lawanda Foust, R. Dewey Foust, Robert Foust, Fred Gebbany, Billy Grooms, Floyd Hampsmire, Phillip Manker, Steve Mullins, Ted Nichols, Wendell Pig, Billie Schafer, Linda Scrivner, Scott Skopec, Charlie Smartt, Robert H. Smith, William Stotler, John Williams

Horse Protection Commission, Inc., P.O. Box 1330, Frazier Park, CA 93225
Licensed DQP's: Donna Benefield, Larry Connelly, Kathy Hester, Tom Hester, Sebastian Kolbusz, Robert Lauer, Donna Moore, Cherie Pitts, Chad Shepherd

Missouri Fox Trotting Horse Breed Association, Inc., P.O. Box 1027, Ava, MO 65608
Licensed DQP's: Richard Carr, Daryl L. Caswell, Pat Harris, Edward Lee, Ken Williams, Lee Yates,

National Horse Show Commission, Inc., P.O. Box 167, Shelbyville, TN 37160
Licensed DQP's: Lonnie D. Adkins, Melanie Allen, Nolan Benton, Johny Black, Ray Cairnes, Ronnie Campbell, Rick Carl, Richard Carr, Harry Chaffin, John Cordell, Joe L. Cuningham, Sr., Eddie Ray Davis, Jessie Davis, Jerry Eaton, William Edwards, Robert Estes, Anthony Eubanks, James Fields, Bob Flynn, Kathy Givens, Iry Gladney, Grover Hatton, Jimmy House, Dave Jividen, Gary Kimmons, Dana Kyte, Larry R. Landreth, William (Bill) Lones, Malcom G. Lutrell, John Marsee, G. K. Mease, Earl Melton, Andy Messick, Lonnie Messick, Richard Messick, Percy Moss, Cary C. Myers, Harlan Pennington, Curtis Pittman, Ted Poland, Barney Porter, Dickey Reece, Ricky D. Rutledge, Vernon Shearer, Ronnie Slack, Ricky L. Statham, Don Steen, J. N. Syrcle, Charles Thomas, Mark Thomas, Steven Thomas, Virginia Wagner, Arnold ''Sarge'' Walker, Doug Watkins, Tommy Willett, Willie Gene Williams, John F. Wilson

Spotted Saddle Horse Breeders and Exhibitors Association, P.O. Box 1046, Shelbyville, TN 37162
Licensed DQP's: Earl M. ''Marty'' Coleman, Danny Ray Davis, Boyd Melton, Lucky Thornton, Don Woodson

Western International Walking Horse Association 18525 SE 346, Auburn, WA 98092,
Licensed DQP's: Larry Corbett, Don Douglas, Ross Fox, Dennis Izzi, Terry Jerke, Dave Swingley, Kim Swingley.

Done in Washington, DC, this 19th day of June 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–16962 Filed 6–24–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service; Solicitation of Input From Stakeholders Regarding the Initiative for Future Agriculture and Food Systems; Public Meeting

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Research, Extension, and Education Reform Act of 1998, creates a new research, education, and extension program called the Initiative for Future Agriculture and Food Systems (the Initiative). By this notice, the Cooperative State Research, Education, and Extension Service (CSREES), acting on behalf of the Secretary of Agriculture, is soliciting public comment from persons who conduct or use agricultural research, extension or education regarding the priorities to be addressed by this new program as required by Section 401(f)(1)(D) of the Act. The Initiative is authorized with mandatory funds at the level of $120 million per year from fiscal year 1999 through fiscal year

2003. This funding will support competitive research, education, and extension grants as well as activities carried out under the Alternative Agricultural Research and Commercialization Act of 1990.

The Secretary of Agriculture is soliciting public comment regarding establishing priorities for the research, education, and extension grant purposes of the Initiative. Statutory purposes of the grant program are defined as ''critical emerging agricultural issues related to:

(i) Future food production;

(ii) Environmental quality and natural resource management; or

(iii) Farm income'' which also address ''priority mission areas related to:

(A) Agricultural genome;

(B) Food safety, food technology, and human nutrition;

(C) New and alternative uses and production of agricultural commodities and products;

(D) Agricultural biotechnology;

(E) Natural resource management, including precision agriculture; and

(F) Farm efficiency and profitability, including the viability and competitiveness of small- and medium-sized dairy, livestock, crop, and other commodity operations.''

The meeting is open to the public. Written comments and suggestions on issues that may be considered in the meeting may be submitted to the CSREES Docket Clerk at the address below.

DATES: The meeting will be held on Thursday, July 9, 1998, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Jefferson Auditorium, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Persons wishing to orally present comments at this meeting are requested to pre-register by contacting Ms. Sarah Poythress at (202) 720–4423, by fax at (202) 720–8987 or by e-mail to spoythress@reeusda.gov. Participants may reserve a 5-minute comment period when they register. More time may be available, depending on the number of people wishing to make a presentation and the time needed for questions, following the presentations. Reservations will be confirmed on a first-come, first-served basis. All other attendees may register at the meeting. Written comments may also be submitted for the record at the meeting or mailed to Ms. Sarah Poythress, USDA/CSREES, Room 305A, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–2201. Please provide three copies of the comments. Written comments must be received by Friday, July 24, 1998, to be considered. All comments and the official transcript of the meeting, when it becomes available, will be available for review for six months at the address listed above from 8:30 a.m. to 4:30 p.m., Monday through Friday.

Participants who require a sign language interpreter or other special accommodations should contact Ms. Poythress as directed above.

Done in Washington, DC, on this 23rd day of June, 1998.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 98–17109 Filed 6–24–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Official Moisture Meter for Corn, Soybeans, and Sunflower Seeds

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

ACTION: Notice.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is announcing that as of August 1, 1998, and thereafter, all official moisture content measurements of corn, soybeans, and sunflower seed inspected under the United States Grain Standards Act will be made with the Grain Analysis Computer Model 2100 (GAC 2100). Official moisture content measurements of other grains and agricultural commodities will continue to be made with the Motomco Model 919 Moisture Meter until the changeover date for those grains is announced.

EFFECTIVE DATE: August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Steven N. Tanner, Director, Technical Services Division, GIPSA, USDA, 10383 N. Executive Hills Boulevard, Kansas City, Missouri 64153; telephone (816) 891–0401; fax (816) 891–0478.

SUPPLEMENTARY INFORMATION: The Grain Inspection, Packers and Stockyards Administration (GIPSA) announced the selection of the Grain Analysis Computer Model 2100 (GAC 2100), manufactured by Dickey-john Corporation, Auburn, Illinois, to replace the Motomco Model 919 Moisture Meter for official moisture content measurements in the **Federal Register** (63 FR 17356) on April 9, 1998. Implementation of the new instruments for official measurements of grains, oilseeds, and processed commodities will be phased in, product by product, over a period of at least 2 years. For any given product, all official moisture measurements will be performed using the Motomco Model 919 until the transition date for that product; the GAC 2100 will be used exclusively thereafter. Transition dates for each product will be selected to minimize the impact of the changes on the value of carry-over stocks and will be announced by GIPSA through a Notice in the **Federal Register** prior to the transition.

The transition date for corn, soybeans, and oil-type sunflower seeds is hereby designated as August 1, 1998. The GAC 2100 will be used for all official moisture determinations on these grains after July 31, 1998. Official calibrations for the GAC 2100 to be used with corn (8% to 20% moisture), high moisture corn (19% to 40% moisture), soybeans (6% to 24% moisture), and oil-type sunflower seeds (4% to 20% moisture) are provided in GIPSA Directive 9180.61, dated May 5, 1998.

The tentative transition date for barley, oats, rough rices, sorghum, and all wheats is May 1, 1999. Transition dates for peas, beans, lentils, and other commodities may lie beyond 1999.

GIPSA's decision to use the GAC 2100 for official moisture measurements does not mean that the Agency endorses or recommends this instrument for unofficial purposes over other similar instruments that are not approved for the official system. The Agency's selection of this instrument was based on GIPSA's unique operational needs. Other instrument models may be as suitable or more suitable for a commercial entity's needs.

In addition, this document corrects the authority citation as published in the April 9, 1998, **Federal Register**, 63 FR 17356, in the first column of page 17357, in a notice concerning implementation of a new official moisture meter. That notice inadvertently omitted reference to the Agricultural Marketing Act of 1946 in the authority citation. The April 9, 1998, citation should read the same as the authority citation for this document.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*); and Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

Dated: June 19, 1998.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–16963 Filed 6–24–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Minnkota Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by two electric utilities: Minnkota Power Cooperative, Inc., (MPC) of Grand Forks, North Dakota, and Otter Tail Power Company (OTPC) of Fergus Falls, Minnesota. These two utilities are collectively referred to as the Partners for the purpose of this project. MPC is a RUS borrower and anticipates to requesting financing assistance for its portion of the proposed transmission line. MPC and OTPC have proposed to construct and operate a transmission line and associated facilities between Oslo in Walsh County, North Dakota and Thief River Falls in Pennington County, Minnesota. The line will originate at an existing substation located approximately two miles west of Oslo in Walsh County, North Dakota. The line will terminate at an existing substation located in Pennington County, Minnesota.

RUS has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

FOR FURTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250—1571, telephone (202)-720–1784.

SUPPLEMENTARY INFORMATION: The RUS, in accordance with its environmental policies and procedures, required that the MPC prepares a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER which includes input from the Federal, state, and local agencies, has been adopted as RUS's Environmental Assessment for the project in accordance with § 1794.61.

The RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project will not affect any known properties listed or eligible for listing in the *National Register of Historic Places.* The project will be constructed on an existing right-of-way for about 24.5 miles. Of the 56 mile total length of the proposed route, 54 miles share rights-of-way with existing highways or roadways. Two miles will be along entirely new rights-of-way. However, if previously unknown resources are discovered during construction, the Partners will halt construction while the significance of the finding and proper mitigation is determined. Construction of the line should have no impact on floodplains, air quality, and formally classified areas. The project should also have no significant impact on farmlands, water quality, wetlands, aesthetics, federally listed or proposed for listing threatened or endangered species or their critical habitat.

Alternatives considered to the project included no action, power purchase from other sources, localized generating facilities, load management and energy conservation, alternative routes, construction method alternatives, design alternatives, and voltage alternatives. RUS has considered these alternatives and concluded that the project as proposed will meet the needs of the MPC to provide adequate service in the project area with a minimum of adverse impact.

Copies of the BER and FONSI are available for review at, or may be obtained from RUS at the address provided above or from the office of MPC, P.O. Box 13200, Grand Forks, North Dakota 58208–3200, telephone (701) 795–4000 during normal business hours.

Dated: June 19, 1998.

Blaine D. Stockton, Jr.

Assistant Administrator—Electric Program.

[FR Doc. 98–16946 Filed 6–24–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Logbook Family of Forms.

Agency Form Number: NOAA 88–30 and 88–140.

OMB Approval Number: 0648–0212.

Type of Request: Revision of a currently approved collection.

Burden: 6,348 hours.

Number of Respondents: 5,875 with multiple responses.

Avg. Hours Per Response: 5 minutes for vessel logbooks and 12.5 minutes for shellfish logbooks. These estimates do not include the time for entries that respondents would make to their own logbooks as normal business practice.

Needs and Uses: Under the Magnuson Fishery Conservation and Management Act, the Regional Fishery Management Councils have developed fishery management plans to conserve and manage marine resources in the exclusive economic zone. Participants in the summer flounder, scup, black seas, bass, Northeast multispecies, Atlantic sea scallop, Atlantic mackerel, squid, butterfish or surf clam and ocean quahog fisheries in the Northeast must submit logbooks containing catch and effort data about their fishing trips. The information is used in the development of management measures to control fishing effort, as well as to enforce the measures once they are in effect.

Affected Public: Businesses or other for-profit organizations.

Frequency: Weekly, monthly.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16864 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: U.S. Fishermen Fishing in Russian Waters.

Agency Form Number: None.

OMB Approval Number: 0648–0228.

Type of Request: Extension of a currently approved collection.

Burden: 75 hours.

Number of Respondents: 10 with multiple responses.

Avg. Hours Per Response: 30 minutes.

Needs and Uses: In support of the Agreement between the U.S. and the Government of the Russian Federation, the National Marine Fisheries Service (NMFS) requires certain information to honor this Agreement. First, U.S. fishermen must apply for a Russian permit by submitting the application to NMFS for transmittal to Russian authorities. When received, fishermen must notify NMFS of the approved permit and then they must report when entering and exiting the U.S. Exclusive Economic Zone. This information will be used in conjunction with landings data by ''enforcement'' staff to determine illegal catch.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion, annually.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Office, Office of Management and Organization.

[FR Doc. 98–16865 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Subsequent Purchaser Report.

Agency Form Number: None.

OMB Approval Number: 0648–0079.

Type of Request: Extension of a currently approved collection.

Burden: 150 hours.

Number of Respondents: 150 with 2 responses each.

Avg. Hours Per Response: 30 minutes.

Needs and Uses: Under the Endangered Species Act (ESA), it is illegal to engage in interstate or foreign commerce of products comprised of endangered fish or wildlife. Certificates of Exemption (CE) were issued to persons holding inventories of such items before the effective date of the law. Only those persons who hold CE's are allowed to engage in interstate or foreign commerce. When selling an item, CE holders are responsible for telling purchasers that they must file a report if they plan to sell the item. This information is used by NOAA's enforcement officers to identify legal items from illegal items in the marketplace.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16866 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Certificate of Exemption.

Agency Form Number: None.

OMB Approval Number: 0648–0078.

Type of Request: Extension of a currently approved collection.

Burden: 41 hours.

Number of Respondents: 10 with multiple responses.

Avg. Hours Per Response: Ranges between 30 minutes and one hour depending on the requirement.

Needs and Uses: Under the Endangered Species Act (ESA), it is illegal to engage in interstate or foreign commerce of products comprised of endangered fish or wildlife. Certificates of Exemption (CE), however, were issued to those persons holding inventories of such items before the effective date of the Act. CE holders must renew their certificates periodically and are required to report on transfer of parts. The information is used by law enforcement personnel to track the movement of such items and to differentiate legal items from illegal ones.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly, every five years.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16867 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Albacore Logbook.

Agency Form Number: None.

OMB Approval Number: 0648–0223.

Type of Request: Revision of a currently approved collection.

Burden: 200 hours.

Number of Respondents: 100 with two responses each.

Avg. Hours Per Response: One hour.

Needs and Uses: Fishermen participating in the Pacific albacore tuna fishery are requested to complete and submit a logbook on their catch and effort. In addition, persons holding permits under the High Seas Fishing Compliance Act will be required to submit such logbooks. The collected information will be used by the National Marine Fisheries Service to assess the status of Pacific albacore stocks and monitor the fishery.

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16868 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Billfish Tagging Report.

Agency Form Number: NOAA 88–162.

OMB Approval Number: 0648–0009.

Type of Request: Extension of a currently approved collection.

Burden: 104 hours.

Number of Respondents: 1,250.

Avg. Hours Per Response: 5 minutes.

Needs and Uses: The Cooperative Marine Game Fish Tagging Program attempts to determine the migratory patterns and gathers other biological information on billfishes. When anglers tag billfish they are asked to report the date and location of the tagging, the species tagged, and their name and address. Persons that recovered the tags are asked to return the tag. The information is used in assessing the health of the billfish resources.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

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, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16869 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Coastal Zone Management Program Administration Grants.

Agency Form Number: None.

OMB Approval Number: 0648–0119.

Type of Request: Revision of a currently approved collection.

Burden: 6,598 hours.

Number of Respondents: 34 with multiple responses.

Avg. Hours Per Response: Ranges between 5 and 240 hours depending on the requirement.

Needs and Uses: Coastal zone management grants provide funds to states and territories to implement Federally-approved Coastal Zone Management Programs and to develop assessment documents and multi-year strategies. NOAA is requesting OMB approval of related performance and annual report requirements, state requests for amendments to their approval coastal zone management programs, and for program management and assessment/strategy documents. The information provided is used by NOAA to determine if the activities help achieve national coastal one management objectives, and if the states are adhering to their approved plans.

Affected Public: State Government.

Frequency: Semi-annually, annually, every 5 years.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16870 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: U.S. Census—Age Search.

Form Number(s): BC–600, BC–649(L), BC–658(L).

Agency Approval Number: 0607–0117.

Type of Request: Extension of a currently approved collection.

Burden: 1,903 hours.

Number of Respondents: 11,899.

Avg Hours Per Response: BC–600 (12 minutes), BC–649(L) (6 minutes), BC–658(L) (6 minutes).

Needs and Uses: The Age Search is a service provided by the Census Bureau for persons who need transcripts of personal data as proof of age for pensions, retirement plans, medicare, or Social Security benefits. Transcripts are also used as proof of citizenship to obtain passports or to provide evidence of family relationship for rights of inheritance. The Age Search forms gather information necessary for the Census Bureau to make a search of its historical population census records in order to provide the requested transcript.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

Legal Authority: Title 13, USC, Section 8.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: June 18, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16874 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Export of Parcels Through the Postal Service.

Agency Form Number: None.

OMB Approval Number: 0694–0095.

Type of Request: Extension of a currently approved collection of information.

Burden: 11,332 hours.

Average Time Per Response: 5 seconds.

Number of Respondents: 8,000,000 respondents.

Needs and Uses: Exporters are required to use the information as an adjunct to completion of their Shipper's Export Declarations (SED). The information provided is the declaration to the Government that the shipment is allowed and is used for enforcement purposes. The United States Postal Service (USPS) reviews the information collected to help assure compliance with the Export Administration Act and Regulations all the way through USPS processing of the parcel to the foreign destination.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: June 19, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16907 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Licensing of Private Remote-Sensing Space Systems.

Agency Form Number: None.

OMB Approval Number: 0648–0174.

Type of Request: Extension of a currently approved collection.

Burden: 96 hours.

Number of Respondents: 6.

Avg. Hours Per Response: 16 hours.

Needs and Uses: Title II of the Land Remote Sensing Act of 1992 requires that anyone who operates a private remote-sensing space system must obtain a license. The information provided in the application is used by NOAA to determine if U.S. security and international obligations are protected. Although NOAA is working on revising the implementing regulations, the current requirements need to remain in force until the revised requirements take effect.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: June 19, 1998.

Linda Engelmeier,

Departmental Forms Clearance Office, Office of Management and Organization.

[FR Doc. 98–16908 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

1999 American Community Survey—Group Quarters Screening—Form ACS–2(GQ)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 24, 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 John Paletta, Bureau of the Census, Room 3715–3, Washington, DC 20230, (301) 457–4269.

SUPPLEMENTARY INFORMATION:

I. Abstract

In 1999 the American Community Survey (ACS) will be conducted in 53 counties. Data from the ACS will determine the feasibility of a continuous measurement system that provides socioeconomic data on a continual basis throughout the decade. The Census Bureau must provide a sample of persons residing in Group Quarters (GQs) the opportunity to be interviewed for the ACS. GQs include places such as student dorms, correctional facilities, hospitals, nursing homes, shelters, and military quarters. Obtaining characteristic information from the GQs will ensure that we include the necessary people residing at GQs in the 1999 ACS.

A GQ screening operation is being conducted in conjunction with 1998 ACS activities. This request revises the existing GQ clearance for use in the 1999 ACS. Major changes are in the estimated number of respondents and in the estimated time per response. In 1998 we are screening a sample of the GQs in eight counties. In 1999 we will screen a sample of the GQs in 53 counties. After completing one-third of the 1998 screening, we have learned that screening averages about 20 minutes per response instead of 10 minutes as originally estimated. In 1999 we will use the same questionnaire for screening that we are using in 1998, Form ACS–2(GQ), ACS GQ Screening.

We will telephone a sample of GQs in the 53 counties where the 1999 ACS will be conducted. We will verify/update information such as GQ name, address, type, and phone number. We will screen to determine if the residents stay for less than 30 days and have another place to live. If so, the GQ will be classified as out-of-scope for ACS interviewing. If the GQ is in-scope, we will screen to determine if we can complete ACS interviews of the GQ residents by mail, thus saving the expense of personal visits. We will obtain a list of rooms and/or residents from which we can select a sample. All ACS interviewing will be conducted under OMB clearance number 0607–0810.

II. Method of Collection

Telephone interviews will be conducted from Census Bureau's National Processing Center in Jeffersonville, Indiana.

III. Data

OMB Number: 0607–0836.
Form Number: ACS–2(GQ).
Type of Review: Regular Submission.
Affected Public: Individuals, businesses or other for-profit organizations, non-profit institutions and small businesses or organizations.
Estimated Number of Respondents: 900 GQs in the 1999 ACS.
Estimated Time Per Response: 20 minutes (.33 hours).
Estimated Total Annual Burden Hours: 300 hours.
Estimated Total Annual Cost: The group quarters screening is part of the 1999 American Community Survey, the cost of which is estimated to be 38.8 million dollars.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13, USC, Section 182.

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: June 19, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–16873 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–602]

Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty changed circumstances review.

SUMMARY: On May 8, 1998, the Department of Commerce published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review of certain fresh cut flowers from Colombia (63 FR 25447). We have now completed this review and determine that Flores El Talle S.A. is a member of the Flores Colombianas Group. Therefore, we will apply the revocation of the antidumping duty order with respect to the Flores Colombianas Group to Flores El Talle S.A.

EFFECTIVE DATE: June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Stephanie Hoffman, AD/CVD Enforcement, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4198.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless

otherwise indicated, all citations to section 351 of the regulations of the Department of Commerce (''the Department'') are to the regulations published in the **Federal Register** on May 19, 1997 (62 FR 27296).

SUPPLEMENTARY INFORMATION:

Background

On May 8, 1998, the Department published in the **Federal Register** the preliminary results of its antidumping duty changed circumstances review on fresh cut flowers from Colombia (63 FR 25447). We have now completed this changed circumstances review in accordance with section 751(b) of the Act and 19 CFR 351.216(d).

Scope of Review

The scope of the order under review is shipments of certain fresh cut flowers from Colombia (standard carnations, miniature (spray) carnations, standard chrysanthemums and pompon chrysanthemums). These products are currently classifiable under item numbers 0603.10.30.00, 0603.10.70.10, 0603.10.70.20, and 0603.10.70.30 of the Harmonized Tariff Schedule (HTS). Although the HTS numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Final Results of Review

This review covers one producer of the subject merchandise, Flores El Talle S.A. (''Flores El Talle''), an entity created by members of the Flores Colombianas Group, a group of producers and exporters. The Department revoked the order with respect to that group on May 31, 1994 (*see*, 59 FR 15159). In this changed circumstances review, the Department examined the question of whether Flores El Talle should be assigned a cash deposit rate equal to the ''all others'' rate, or whether it is covered by the revocation granted to the Flores Colombianas Group.

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 it is appropriate to treat Flores El Talle and the Flores Colombianas Group as a single entity in the production and sale of the subject merchandise. Consequently, the revocation of the antidumping duty order with respect to the Flores Colombianas Group extends to Flores El Talle.

This revocation applies to all unliquidated entries of this merchandise produced by Flores El Talle, exported to the United States and entered, or withdrawn from warehouse, for consumption, on or after May 31, 1994 (the effective date of the revocation from the order for the Flores Colombianas Group). We will instruct the U.S. Customs Service to release any cash deposit or bond and liquidate the entries without regard for antidumping duties (see, 19 CFR 351.222(g)(4)).

This notice also serves as 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.

This determination is issued and published in accordance with sections 751(b) and 771(i)(1) of the Act.

Dated: June 18, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–16977 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service; Office of the Secretary; DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 24, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Finance Directorate, ATTN: Mr. Faafiti Malufau, 1931 Jefferson Davis Highway, Arlington, VA 22240–5291.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Mr. Faafiti Malufau, 703–607–5061.

Title, Associated Form, and OMB Number: Custodianship Certificate to Support Claim on Behalf of Minor Children of Deceased Members of the Armed Forces.

Needs and Uses: Per DoD Financial Management Regulation 7000.14R, Volume 7B, Chapter 5, paragraph 90503a(1), annuity for a minor child is paid to the legal guardian, or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The annuity cannot be paid until the custodian certified that he/she has the care and custody of the child(ren).

Affected Public: Individuals.

Annual Burden Hours: 120 hours.

Number of Respondents: 300.

Responses Per Respondent: 1.

Average Burden Per Response: 24 minutes.

Frequency: 1.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The form is used by the Directorate of Annuity Pay, Defense Fiance and Accounting Service—Denver Center (DFAS-DE), in order to pay the annuity to the correct person on behalf of a child under the age of majority. If the form with the completed certification is not received, the annuity payments are suspended. Since the funds for annuity are paid by members there are no consequences to the Federal Government.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–16905 Filed 6–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 24, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Defense Finance and Accounting Service—Finance Directorate, ATTN: Mr. Faafiti Malufau, 1931 Jefferson Davis Highway, Arlington, VA 22240–5291.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Mr. Faafiti Malufau, 703–607–5061.

Title, Associated Form, and OMB Number: Child Annuitant's School Certification form.

Needs and Uses: In accordance with 10 USC 1435 and 10 USC 1447 and DoD Financial Management Regulation, 7000.14–R, Volume 7B, a child annuitant between the age of 18 and 22 years of age must provide evidence of intent to continue study or training at a recognized educational institution. The certificate is required for the school semester or other period in which the school year is divided.

Affected Public: Individuals.

Annual Burden Hours: 720 hours.

Number of Respondents: 3,600.

Responses per Respondent: 1 each semester.

Average Burden per response: 12 minutes.

Frequency: Once each semester of full time school, ages 18 to 22.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Child Annuitant's School Certification form is submitted to the child for completion and return to this agency. The child will certify as to his or her intent for future enrollment and a school official must certify on the past or present school enrollment of the child. By not obtaining school certification, overpayment of annuities to children would exist. This information may be collected from some schools which are non-profit institutions such as religious institutions. If information is not received after the end of each school enrollment, over-disbursements of an annuity would be made to a child who elected not to continue further training or study.

Dated: June 19, 1998.

Patricia L. Toppings.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–16906 Filed 6–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission For OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Repatriation Automated Tracking System; DD Form 2585; OMB Number 0704–0334.

Type of Request: Reinstatement.

Number of Respondents: 5,000.

Responses Per Respondent: 1.

Annual Responses: 5,000.

Average Burden Per Response: 20 minutes.

Annual Burden Hours: 1,667.

Needs and Uses: Executive Order 12656 (E.O. 12656) establishes the responsibilities for the Department of Health and Human Services (DHHS) and the Department of Defense (DoD) to take care of any American citizen and family member that is evacuated from any country and ensure their personal needs are met. This information collection provides evacuation information necessary to account for any military and civilian regardless of nationality. The DD Form 2885, ''Repatriation Processing Center Processing sheet,'' is used to collect the necessary data which is entered into the Repatriation Automated Tracking System to produce a series of reports generated for and made available to the Department of Defense, Federal and State agencies.

Affected Public: Individuals or households; Federal Government; State, Local, or Tribal Government.

Frequency: On occasion.

Respondents Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: June 19, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–16904 Filed 6–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.317]

Office of Elementary and Secondary Education; Notice Inviting Applications From Local Educational Agencies in Oklahoma and Montana; Application Deadline Date Extension

AGENCY: Department of Education.

ACTION: Notice extending the application deadline date.

SUMMARY: On April 9, 1998 (63 FR 17630), the Department of Education published in the **Federal Register** a notice inviting applications from local educational agencies in Oklahoma and Montana for fiscal year 1997 and 1998 funds under the Goals 2000: Educate America Act. The deadline for transmittal of applications was May 27, 1998.

On May 24, 1998, the area surrounding Deer Creek and Lamont, Oklahoma was struck by numerous tornadoes that caused significant

damage. The school district suffered damage to its facilities and was without electricity and water for days. During this period, school facilities served as a temporary shelter and a center for local assistance efforts. As a result of this disaster, district officials were unable to tend to usual business. The district has requested that the U.S. Department of education extend by one day the deadline for submission of its application for Goals 2000 funding. In light of the information provided by the district, the Assistant Secretary has extended until May 28, 1998 the deadline by which the Deer Creek—Lamont School District may file an application for fiscal years 1997 and 1998 Goals 2000 funding.

DATES: The new deadline for the applications from the Deer Creek—Lamont School District is May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Cindy Cisneros, U.S. Department of Education, 600 Independence Avenue, SW., Portals Building, Room 4000, Washington, DC 20202–21110, Telephone: (202) 401–0039, Fax: (202) 204–0303. These contacts may also be reached via e-mail at cindy__cisneros@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://ww.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone (202) 219–1511, or, toll free, 1–800–222–4922. The documents are located under Option G—Files Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: June 18, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–16823 Filed 6–24–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[FE Docket Nos. 98–31–NG, 98–33–NG, 98–32–NG, 98–34–NG, 97–59–NG, 98–36–NG, 97–109–NG, 98–38–NG, 98–37–NG, and 98–35–NG]

Office of Fossil Energy; Orders Granting, Amending and Transferring Authorizations To Import and/or Export Natural Gas and Liquefied Natural Gas

H.Q. Energy Services (U.S.) Inc., The Washington Water Power Company, Chevron U.S.A. Inc., AEC Storage and Hub Services Inc., PG&E Texas VGM, L.P., The Montana Power Trading & Marketing Company, USGEN New England, Inc. (Successor to New England Power Company), West Texas Gas, Inc., Burlington Resources Trading Inc., and Applied LNG Technologies USA, L.L.C.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and transferring various natural gas and liquefied natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 19, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING, AMENDING AND TRANSFERRING IMPORT/EXPORT AUTHORIZATION

Order No.	Date issued	Importer/exporter FE docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1380	05/06/98	H.Q. Energy Services (U.S.) Inc., 98–31-NG	100 Bcf	100 Bcf	Import and export each from both Canada and Mexico.
1381	05/07/98	The Washington Water Power Company, 98–33-NG.	100 Bcf	.....	Import from Canada beginning on first delivery after June 25, 1998.
1383	05/08/98	Chevron U.S.A. Inc., 98–32-NG	73 Bcf	.....	Import from Canada beginning July 1, 1998, through June 30, 2000.
1384	05/18/98	AEC Storage and Hub Services Inc., 98–34-NG.	200 Bcf		Import and export up to a combined total from and to Canada and Mexico beginning on the date of first import or export.
1297–A	05/20/98	PG&E Texas VGM, L.P. (Formerly Valero Gas Marketing, L.P.), 97–59-NG.	.....	.....	Name changed.
1386	05/28/98	The Montana Power Trading & Marketing Company, 98–36-NG.	.....	30 Bcf	Export to Canada beginning on date of the first delivery.
1348–A	05/28/98	USGen New England, Inc. (Successor to New England Power Company), 97–109-NG.	.....	.....	Transfer of authority.

APPENDIX—ORDERS GRANTING, AMENDING AND TRANSFERRING IMPORT/EXPORT AUTHORIZATION—Continued

Order No.	Date issued	Importer/exporter FE docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1387	05/28/98	West Texas Gas, Inc., 98–38-NG	.....	50 Bcf	Export to Mexico beginning June 1, 1998, through May 31, 2000.
1388	05/28/98	Burlington Resources Trading Inc., 98–37-NG.	.....	100 Bcf	Import and export up to a combined total from and to Mexico beginning on June 1, 1998, through May 31, 2000.
1389	05/29/98	Applied LNG Technologies USA, L.L.C., 98–35-LNG.	.....	5.2 Bcf	Export of LNG to Mexico beginning on the date of first truck delivery.

[FR Doc. 98–16948 Filed 6–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. FE C&E 98–04—Certification Notice—159]

Office of Fossil Energy; Androscoggin Energy LLC Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: On June 4, 1998, Androscoggin Energy LLC submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: Androscoggin Energy LLC.

Operator: Polsky Services, Inc.

Location: Riley Road, near the city of Jay, Maine.

Plant Configuration: Combined-Cycle, Cogeneration.

Capacity: 145 megawatts.

Fuel: Natural gas.

Purchasing Entities: Retail and wholesale markets connected to New England Power Pool.

In-Service Date: Mid to late 1999.

Issued in Washington, D.C., June 19, 1998.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–16947 Filed 6–24–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–73–000 FERC Form No. 73]

Proposed Information Collection and Request for Comments

June 19, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before August 24, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form No. 73 ''Oil Pipelines Service Life Data'' (OMB No. 1902–0019) is used by the Commission to implement the statutory provisions of Sections 306 and 402 of the Department of Energy Organization Act 42 U.S.C. § 7155 and 7172, and Executive Order No. 12009, 42 FR 46277 (September 13, 1977). From these statutory sections the Commission assumed jurisdictional responsibility for oil pipelines from the Interstate Commerce Act, 49 U.S.C. § 6501 et. al. As part of the information necessary for the subsequent investigation and review of the oil pipeline company's proposed depreciation rates, the pipeline companies are required to provide service life data as part of their data submission if the proposed depreciation rates are based on remaining physical life calculations. This service life data is collected and submitted on FERC Form No. 73.

Data submitted by an oil pipeline company during an investigation may be either initial data or it may be an update to existing data already on file. These data are then used by the Commission as input to several computer programs know collectively as the Depreciation Life Analysis System (DLAS) to assist in the selection of appropriate service lives and book depreciation rates.

Book depreciation rates are used by oil pipeline companies to compute the depreciation portion of their operating

expense which is a component of their cost of service which in turn is used to determine the transportation rate to assess customers. Staff's recommended book depreciation rates become legally binding when issued in an order by the Commission. These rates remain in effect until a subsequent review is requested and the outcome indicates that a modification is justified. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Parts 347 and 357.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
5	1	40	200

Estimated cost burden to respondents: 200 hours divided by 2,088 hours per year times $110,000 per year equals $11,000. The cost per respondent is equal to $2,200.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to acitivites which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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 those who are to respond, including 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16878 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC98–6–000; FERC Form 6]

Proposed Information Collection and Request for Comments

June 19, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before August 24, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 6 ''Annual Report of Oil Pipeline Companies'' (OMB NO. 1902–0022) is used by the Commission to implement the statutory Provisions of the Interstate Commerce Act (ICA), (49 U.S.C.). The ICA authorizes the Commission to make investigations and to collect and record data and to prescribes rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the ICA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing may determine the accounts in which particular outlays and receipts will be entered, charged or credited. Every pipeline carrier subject to the provisions of Section 20 of the ICA must file with the Commission copies of FERC Form 6.

The Commission's Office of Chief Accountant uses the information collected in its audit program and the continuous review on the financial condition of regulated companies. The Office of Pipeline Regulation uses the data in its various rate proceedings and supply programs, and the Offices of Economic Policy and General Counsel use the data in their programs relating to the administration of the ICA. Data on certain schedules of the FERC Form 6 is used to compute annual charges which are then assessed against oil pipeline companies to recover the Commission's annual costs. These annual charges are required by Section 3401 of the Budget Act.

The ICA mandates the collection of information needed by the Commission to perform it regulatory responsibilities in the setting of the just and reasonable rates. The Commission could be held in violation of the ICA if the information was not collected.

The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Section 260.2 and Parts 351; 352; 356 and 357.2.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: Public Reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondents (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
159	1	*111	17,649

*Rounded off

Estimated cost burden to respondents: 17,649 hours divided by 2088 hours per year times $109,889 per year equals $928,848. The cost per respondent is equal to $5,842.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the Commission'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 those who are to respond, including 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16879 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–574–000 FERC–574]

Proposed Information Collection and Request for Comments

June 19, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before August 24, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC-574 ''Gas Pipeline Certificates: Hinshaw Exemption'' (OMB No. 1902–0116) is used by the Commission to implement the statutory provisions of Sections 1(c), 4 and 7 of the Natural Gas Act (NGA) Pub. L. 75–688) (15 U.S.C. 717–717w). Natural Gas Pipeline companies file applications with the Commission furnishing information in order for a determination to be made as to whether the applicant qualifies for an exemption from the provisions of the Natural Gas Act (Section 1(c). If the exemption is granted, the pipeline is not required to file certificate applications, rate schedules, or any other applications or forms otherwise prescribed by the Commission.

The exemption applies to companies engaged in the transportation or sale for resale or natural gas in interstate commerce if: (a) it receives gas at or within the boundaries of the state from another person; (b) such gas is transported, sold, consumed within such state; and (c) the rates, service and facilities of such company are subject to regulation by a State Commission. The data required to be filed by pipeline companies for an exemption is specified by 18 Code of Federal Regulations (CFR) Part 152.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
1	1	245	245

The estimated total cost to respondents is $12,907, (245 hours divided by 2,088 hours per year per employee times $110,000 per year per average employee=$12,907). The cost per respondent is $12,907.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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 those who are to respond, including 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16895 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC98–550–000 FERC–550]

Proposed Information Collection and Request for Comments

June 19, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before August 24, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NW., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.millerferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–550 ''Oil Pipeline Rates: Tariff Filings'' (OMB No. 1902–0089 is used by the Commission to implement the statutory provisions of Part I, Sections 1, 6, and 15, of the Interstate Commerce Act (ICA) (Pub. L. No. 337, 34 Stat. 384). Jurisdiction over oil pipelines, as it relates to the establishment of rates or charges for the transportation of oil by pipeline or the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Commission, pursuant to Section 306 and 402 of the Department of Energy Organization Act (DOS Act), 42 U.S.C. 7155 and § 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

The filing requirement provide the basis for analysis of all rates, fares, or charges whatsoever demanded, charged or collected by any common carrier or carriers in connection with the transportation of crude oil and petroleum products and are used by the Commission to establish a basis for determining the just and reasonable rates that should be charged by the regulated pipeline company. Based on this analysis, a recommendation is made to the Commission to take action whether to suspend, accept or reject the proposed rate. The data required to be filed for pipeline rates and tariff filings is specified by 18 Code of Federal Regulations (CFR) Chapter I Parts 340–348.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
170	3.06	10.9	5,668

The estimated total cost to respondents is $298,100 (5,668 hours divided by 2,088 hours per year per employee times $110,000 per year per average employee=$298,100). The cost per respondent is $1,754.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information;

and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, 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 those who are to respond, including 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16896 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2591–000]

Avery Hydroelectric Associates; Notice of Withdrawal

June 19, 1998.

Take notice that on June 16, 1998, Avery Hydroelectric Associates tendered for filing a notice of withdrawal of its filing made on April 20, 1998, in Docket No. ER98–2591–000.

A copy of this notice is being served upon the Public Service Company of New Hampshire and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 1, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16881 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–017]

CNG Transmission Corporation; Notice of Compliance Filing

June 19, 1998.

Take notice that on June 16, 1998, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

2nd Sub. 2nd Revised Sheet No. 250

CNG requests an effective date of January 5, 1998 for its revised tariff sheet.

CNG states that the purpose of this filing is to comply with the Commission's directive to refile Sheet No. 250 to reflect CNG's correction of the tariff sheet containing Section 25 in its March 30, 1998 filing. CNG states that Sheet No. 250 contains the Table of Contents for the General Terms and Conditions of CNG's tariff. CNG has revised the pagination of its Table of Contents to reflect the tariff sheets previously approved by the Commission in this docket.

CNG states that copies of its filing have been mailed to parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16893 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–605–000]

Columbia Gulf Transmission Co., Columbia Gas Transmission Corp., and Texas Gas Transmission Corp.; Notice of Application

June 19, 1998.

Take notice that on June 11, 1998, Columbia Gulf Transmission Company (Columbia Gulf), 2603 Augusta, STE 125, P.O. Box 683, Houston, Texas, 77001–0683, Columbia Gas Transmission Corporation (Columbia Gas), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, and Texas Gas Transmission Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky, 42304, (jointly referred to as Applicants) filed in Docket No. CP98–605–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) regulations thereunder, for permission and approval to abandon an exchange service authorized in Docket No. CP–74–80, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to abandon an exchange service provided pursuant to Columbia Gulf's Rate Schedule X–16, Columbia Gas' Rate Schedule X–38, and Texas Gas' Rate Schedule X–51. Applicants have mutually agreed to the proposed abandonment, and no facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 10, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its 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 Applicants to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16886 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–610–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

June 19, 1998.

Take notice that on June 12, 1998, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP98–610–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to operate an existing metering facility located at the discharge side of the Chaco Compressor Station in San Juan County, New Mexico, as a jurisdictional delivery point for the delivery of natural gas pursuant to Subpart G, Part 284 of the Commission's Regulations, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that by order issued March 31, 1998 in Docket No. CP94–183–005, Applicant was granted permission and approval to abandon and transfer to El Paso Field Services Company (Field Services) the Chaco Compressor Station, with appurtenances. Applicant further states that the abandonment and transfer of facilities occurred on April 30, 1998.

Applicant asserts that prior to April 30, 1998, fuel for the daily operation of the Chaco Station was provided by Applicant at an existing point on Applicant's interstate transmission system downstream of the Chaco Station. Applicant further asserts that it now seeks authorization to utilize the existing metering facility at the Chaco Station as a jurisdictional delivery point to accommodate a request by Field Services for pipeline quality gas as fuel at the Chaco Plant/Compressor Station on an emergency basis. Applicant states that the fuel gas will be delivered pursuant to an effective Transportation Service Agreement between Applicant and Field Services and that Applicant has sufficient capacity to accomplish the deliveries specified herein without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the National Gas act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16887 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–55–000]

Great Lakes Gas Transmission Partnership; Notice of Refund Report

June 19, 1998.

Take notice that on June 16, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing a Report of Gas Research Institute Tier 1 (GRI) Refunds for 1997 calendar year overpayments.

Great Lakes states that the refund report is filed in accordance with the Commission's Order issued February 22, 1995 in Docket No. RP95–124–000 (70 FERC ¶ 61,205).

Great Lakes states that a refund amount of $183,701 was received from GRI on May 29, 1998. Great Lakes further states this amount was subsequently refunded to eligible firm transportation customers on a pro-rata basis. The report filed by Great Lakes reflects the GRI refund amounts allocated to each eligible firm transportation customer for the 1997 calendar year.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 26, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16890 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2594–000]

Hadley Falls Associates; Notice of Withdrawal

June 19, 1998.

Take notice that on June 16, 1998, Hadley Falls Associates, tendered for filing Notice of Withdrawal of its filing made on April 20, 1998, in Docket No. ER98–2594–000.

A copy of the notice is being served upon New Hampshire and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice

and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 1, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16882 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–84–000]

Inter-American Energy Corporation; Notice of Petition for Adjustment

June 19, 1998.

Take notice that on June 16, 1998, Inter-American Energy Corporation (Inter-American) filed a petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978, for relief from making the Kansas ad valorem tax refunds required by the Commission's September 10, 1997 order, in Docket No. RP97–369–000 *et al* [80 FERC ¶ 61,264 (1997); rehearing denied January 28, 1998, 82 FERC ¶ 61,058 (1998)], on remand from the D.C. Circuit Court of Appeals,[1] that directed First Sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. Inter-American states that it received a $99,878.06 refund claim ($35,771.02 in principal and $64,107.04 in interest) form Colorado Interstate Gas Company (CIG), that it is a small oil and gas company owned predominantly by one 76 year old man who's sole means of support comes from this small company, and that Inter-American's financial status cannot absorb the refund claimed by CIG, even if amortized over five years. Therefore, Inter-American requests to be relieved from making the refund to CIG. Inter-American's petition is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 204526, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16892 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

[1] *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. ER98–2600–000]

Lakeport Hydroelectric Associates, Lakeport Hydroelectric Corp.; Notice of Withdrawal

June 19, 1998.

Take notice that on June 16, 1998, Lakeport Hydroelectric Associates & Lakeport Hydroelectric Corp., tendered for filing Notice of Withdrawal of its filing made on April 20, 1998, in Docket No. ER98–2600–000.

A copy of the notice is being served upon Public Service Company of New Hampshire and New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 1, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16883 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–221–001]

Northern Border Pipeline Company; Notice of Compliance Filing

June 19, 1998.

Take notice that on June 17, 1998, Northern Border Pipeline company (Northern Border) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective June 15, 1998:

Substitute Second Revised Sheet Number 138
Substitute First Revised Sheet Number 262A

Northern Border states that the purpose of this filing is to comply with the Commission's letter order issued June 10, 1998 in Docket No. RP98–221–000. The Commission's June 10, 1998 letter order acquired certain housekeeping changes which have been reflected in this filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16894 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP98–37–000]

James E. Silver; Notice of Petition for Clarification

June 19, 1998.

Take notice that, on June 15, 1998, James E. Silver (Silver) filed a letter petitioning the Commission to clarify whether the Commission will direct Williams Gas Pipelines Central, Inc., formerly: Williams Natural Gas Company (Williams) to return certain Kansas ad valorem tax refunds that Silver paid to Williams on behalf of certain royalty interest owners, where Silver has since been unable to recover the refunds he paid on behalf of certain royalty owners, from those royalty owners. Silver's petition is on file with the Commission and open to public inspection.

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.

Silver indicates that he is the Managing Partner of Olympic Petroleum Company (Olympic), and that Williams notified him that Olympic owed $85,787.27 in Kansas ad valorem tax refunds to Williams ($34,877.98 in principal and $50,909.29 in interest). Silver states that he paid this sum to Williams, in full. Silver also indicates that $15,453.64 of this total represents refunds attributable to royalty owners that he paid on behalf of the royalty owners. Silver states that he has been unable to recover $10,281.37 from certain royalty owners, and sets forth the amount of unrecovered refunds, along with the reason he has been unable to recover those refunds from the royalty owners, as follows: (1) $8,441.53 represents ten (10) royalty owners that have failed to respond to letters and phone calls; (2) $210.32 represents a single royalty owner who's address is unknown; (3) $818.57 represents a single royalty owner who has petitioned the Commission (in Docket No. SA98–79–000) for relief from the refund requirement; and $810.95 represents five (5) royalty owners who are deceased and their estates closed. In review of this, Silver requests the Commission to clarify whether the Commission will consider returning (i.e., whether the Commission will consider directing Williams to return):

(1) The $810.95 Silver paid on behalf of deceased royalty owners and, if so, what the procedures are for requesting such consideration;

(2) the $210.32 Silver paid on behalf of the royalty owner whose address is unknown; and

(3) the $818.57, in the event that the Commission grants the royalty owner's appeal in Docket No. SA98–79–000 and, if so, what the procedure is for doing so.

In addition, Silver requests the Commission to clarify whether the Commission's September 10, 1997 refund order affords Silver any authority or legal power to recover the $8,441.53 in refunds that he paid on behalf of the 10 royalty owners who have since refused to respond to his requests to be reimbursed for the refunds he made on their behalf.

Any person desiring to comment on or make any protest with respect to the above-referenced petition should, on or before July 10, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16888 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See 80 FERC ¶ 61,264 (1997); order denying rehearing 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

[Project No. 405–043]

Susquehanna Power Company and Philadelphia Electric Company; Notice of Petition for Declaratory Order

June 19, 1998.

On May 12, 1998, the Mayor and City Council of Baltimore, Maryland (Baltimore) filed a petition for declaratory order and supporting memorandum, seeking a Commission order declaring: (1) That the Commission has exclusive jurisdiction over pool elevations and pool operations of the Conowingo Project No. 405; (2) that the Licensees for the project must comply with all orders of this Commission concerning the project; and (3) such further and other relief as the Commission may deem appropriate.

Baltimore's petition is prompted by concerns that water withdrawals it makes from the project reservoir may be restricted as a result of certains actions being taken by the Susquehanna River Basin Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's 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 and other comments, but only those who file a motion to intervene may become a party to the proceeding. Comments, protests, or motions to intervene must be filed by July 27, 1998; must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and Project No. 405–043. Send the filings (original and 8 copies) to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any filing must also be served on each representative of the petitioner named in its petition.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16891 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–54–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund

June 19, 1998.

Take notice on June 15, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a report of Gas Research Institute (GRI) refunds made to its customers.

Transco states that refunded amounts were made to eligible shippers via Mail or wire transfer based on non-discounted GRI demand amounts paid during the year ended December 31, 1997. The amounts refunded by Transco resulted from refunds made to Transco by the GRI.

Transco states that copies of this filing are being served to each affected customer.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rule sand Regulations. All such motions or protests must be filed on or before June 26, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16889 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CO98–600–000]

Tuscarora Gas Transmission Company; Notice of Request Under Blanket Authorization

June 19, 1998.

Take notice that on June 9, 1998, Tuscarora Gas Transmission Company (Tuscarora), 1575 Delucchi Lane, Suite 225, Post Office Box 30057, Reno, Nevada 89520–3057, filed in Docket No. CP98–600–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations (18 CFR 157.205, 157.211) under the Natural Gas Act (NGA) for authorization to operate an existing tap, meter station and appurtenant facilities constructed under the authorization of Section 311 of the Natural Gas Policy Act of 1978 (NGPA) in Washoe County, Nevada, for transportation services by Tuscarora, under Tuscarora's blanket certificate issued in Docket No. CP93–685–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tuscarora proposes to operate the existing 6-inch tap, meter and appurtenant facilities to serve U.S. Gypsum Company's (USGC) Empire plant. It is stated that USGC has recently converted its Empire plant to burn natural gas rather than fuel oil as the primary fuel in its wallboard manufacturing process. Tuscarora states that it has been transporting up to 1,550 Dt equivalent of natural gas per day to USGC under its Section 311 authorization. The cost of the proposed facilities is estimated at $134, 000. It is stated that USGC has constructed approximately 64 miles of 6-inch pipeline to connect its Empire plant to Tuscarora's pipeline, and that Tuscarora plans to purchase up to 26 miles of this line and will seek Commission authorization for acquisition and operation. It is further asserted that no customers of Tuscarora have been or will be adversely affected by the proposed authorization for the facilities and that such authorization will have no effect on Tuscarora's ability to make deliveries to its existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 1547.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16885 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–809–000, et al. and CP96–810–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Availability of the Final Environmental Impact Statement for the Proposed Maritimes Phase II Project

June 19, 1998

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this final environmental impact statement (FEIS) on the natural gas pipeline facilities proposed by Maritimes & Northeast Pipeline, L.L.C. in the above-references dockets and referred to as the Maritimes Phase II Project.

The staff prepared the FEIS to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures as proposed and recommended, would have limited adverse environmental impact.

The FEIS assesses the potential environmental effects of construction and operation of the following facilities in Maine:

- A total of about 347.0 miles of pipeline, consisting of 200.1 miles of 24– and 30–inch-diameter mainline between Westbrook in York County and Woodland (Baileyville) in Washington County, and five laterals totaling 146.9 miles of 4– to 16–inch-diameter pipeline;
- About 31,160 horsepower of new compression at two new compressor stations;
- Twelve new meter stations; and
- Associated aboveground facilities, including 35 block valves and remote blow-off valves.

The purpose of the proposed facilities would be to transport 440,000 thousand cubic feet per day of natural gas to existing and new natural gas markets in Maine and the northeast. These natural gas supplies would come from new reserves being developed in offshore Nova Scotia, Canada.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1371.

A limited number of copies are available at this location.

Copies of the FEIS have been mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

In accordance with Council of Environmental Quality (CEQ) regulations implementing National Environmental Policy Act, no agency decision on the proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of the FEIS. However, the CEQ regulations provide an exception to this rule on timing when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time that the notice of the FEIS is published, allowing both

appeal periods to run concurrently. Should the Commission issue Maritimes a Certificate for the proposed action, it would be subject to a 30-day rehearing period.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16897 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–153–004]

Southern Natural Gas Company; Notice of Availability of the Draft Supplement to the Final Environmental Impact Statements for the Proposed Amended North Alabama Pipeline Project

June 19, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this Draft Supplement to the Final Environmental Impact Statement (Supplement) for the North Alabama Pipeline Project and it addresses the environmental impact of the amended natural gas pipeline project proposed by Southern Natural Gas Company (Southern) in the above-referenced docket.

The staff prepared the Supplement to satisfy the requirements of the National Environmental Policy Act. The staff concludes that the Amended North Alabama Pipeline Project would result in limited adverse environmental impact if it is constructed as planned and with the additional mitigation recommended in this Supplement. This document supplements the *North Alabama Pipeline Project Final Environmental Impact Statement* (FEIS) that was noticed by the U.S. Environmental Protection Agency in the **Federal Register** on May 30, 1997. The Supplement only examines the route changes north of milepost 95.25 (about milepost 91.2 of the route previously studied in the FEIS). There are no changes in the facilities south of milepost 95.25.

The Supplement assesses the potential environmental effects of construction and operation of the following Southern facilities:

- About 27.1 miles of interstate natural gas pipeline (26.9 miles of 16-inch-diameter pipeline and 0.2 mile of 12-inch-diameter pipeline); and
- Two new meter stations, and related facilities.

Facilities required by two local distribution companies to receive natural gas from Southern are also examined.

The purpose of Southern's proposed facilities would be to transport a total of 69,000 thousand cubic feet per day of natural gas to one existing and two new customers in northern Alabama.

Comment Procedure

Written Comments

Any person wishing to comment on the Supplement may do so. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Reference *Docket No. CP96–153–004;*
- Send *two* copies of your comments to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, D.C. 20426.
- Label *one* copy of the comments for the attention of the Environmental Review and Compliance Branch II, PR 11.2; and
- Mail your comments so that they will be received in Washington, D.C. on or before *August 10, 1998.*

Public Meeting Schedule

A public meeting to receive comments on the Supplement will be held on July 30, 1998 at 7:00 p.m. at the: Hartselle Civic Center, 406 Nanceford Road, Hartselle, AL 35640.

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impacts described in the Supplement. Anyone who would like to speak at the public meeting may get on the speakers list by signing up at the public meeting. Priority will be given to persons representing groups. A transcript will be made of the meeting.

After these comments are reviewed, any significant new issues are investigate, and modifications are made to the draft Supplement, a final Supplement will contain the staff's responses to timely comments received on the draft Supplement.

The Supplement has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, D.C. 20426, (202) 208–1371.

A limited number of copies are available at this location.

Copies of the Supplement have been mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding. Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person may file a timely motion to intervene during the comment period on the basis of the Commission staff's draft Supplement (see 18 CFR 380.106 and 385.214). *You do not need intervenor status to have your comments considered.*

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16884 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2699–001, 2019–017, 11452–000, 11563–002, and 11477–000 California]

Utica Power Authority and Northern California Power Agency; Notice of Intent to Conduct Public Scoping Meetings and Site Visit

June 19, 1998.

The Federal Energy Regulatory Commission (Commission) received applications from Utica Power Authority and Northern California Power Agency (applicants) to relicense the Angels, Utica, and Upper Utica Projects as follows:

Project No.	Project name	Applicant
—2699–001	Angels	Utica Power Authority.
—2019–017	Utica	Utica Power Authority.
11452–000	Angels	Northern California Power Agency.
11477–000	Utica	Northern California Power Agency.

Project No.	Project name	Applicant
11563–000	Upper Utica	Northern California Power Agency.

The projects are located in Calaveras, Alpine, and Toulumne Counties, California. The Commission will hold agency and public scoping meetings on July 22, and 23, 1998, for preparation of an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) for the issuance of licenses for the projects.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and two public meetings. The agency scoping meeting will focus on resource agencies and non-governmental organizations (NGO) concerns, while the public scoping meetings are primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or all the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Meeting

Wednesday, July 22, 1998, 10:00 am, Bret Harte High School, Music Room, 364 Murphys Grade Road, Angels Camp, California

Public Meetings

Wednesday, July 22, 1998 7:00 pm, Bret Harte High School Music Room, 364 Murphys Grade Road, Angels Camp, California

Thursday, July 23, 1998, 7:00 pm, Bear Valley Lodge, 3 Bear Valley Road, Bear Valley, California

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed at the meetings to the parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The applicants and Commission staff will conduct project site visits as follows:

Angels and Utica Projects

Tuesday, July 21, 1998 9:00 am.

Meet in front of the Utica Power Authority Building, 1168 Booster Way, Angels Camp, California.

Those interested in participating should contact Mr. Dennis Dickman at (209) 754–4230 in advance.

Upper Utica Project

Thursday, July 23, 1998 10:00 am.

Meet in front of the Bear Valley Lodge, 3 Bear Valley Road, Bear Valley, California.

Those interested in participating should contact: Mr. Hari Modi at (916) 781–4204 in advance.

All interested individuals, organizations, and agencies are invited to attend. All participants are responsible for their own transportation to the sites.

Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the relative depth of analysis for issues to be addressed in the EA; and (5) identify resources issues that are of lesser importance, and, therefore, do not require detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the projects. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record. Speaking time for attendees at the meetings will be determined before the meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. All speakers will be provided at least 5 minutes to present their views.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, not later than August 24, 1998. All filings should contain an original and eight copies, and must clearly show at the top of the first page the project names(s) and project number(s).

For further information, please contact Hector M. Perez at (202) 219–2843.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–16880 Filed 6–24–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OW–FRL–6116–6]

Notice of National Strategy for the Development of Regional Nutrient Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of National Strategy for the Development of Regional Nutrient Criteria, and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of a National Strategy for the Development of Regional Nutrient Criteria. The Strategy describes the aspproach the Agency is taking to develop scientific information relating to nutrient overenrichment of the Nation's surface waters and to working with States to assure that State water quality standards reflect this nutrient information.

This Strategy has been through Agency review and external peer review. If you have comments on this document please provide them to the address below. They will be addressed in future updates of the Strategy.

DATES: Written comments should be submitted to the person listed by August 24, 1998.

Comments should be sent to: Nicholas A. Baer, Health and Ecological Criteria Division (4304), Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

ADDRESSES: This notice contains a summary of the National Strategy for the Development of Regional Nutrient Criteria. Copies of the complete document or a fact sheet summarizing the Strategy may be obtained from the U.S. Environmental Protection Agency,

National Center for Environmental Publication and Information, 11029 Kenwood Road, Bldg. 5, Cincinnati, Ohio 45242; fax 1–513–489–8695 or 1–800–490–9198. The fact sheet and the Strategy are also available on the Internet at http://www.epa.gov/ncepihom/orderpub.html.

FOR FURTHER INFORMATION CONTACT: Robert Cantilli, Health and Ecological Criteria Division (4304), Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202) 260–5546, Fax (202) 260–1036, email: cantilli.robert@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Background

Nutrients are essential to the health and diversity of surface waters. In excess amounts, however, nutrients cause hypereutrophication resulting in an overabundance of primary producers and decline of the biological community as well as potential human health risks. The National Water Quality Inventory 1996 Report to Congress cites nutrients (nitrogen and phosphorus) as one of the leading causes of water quality impairment in our Nation's rivers, lakes and estuaries. Nutrients have also been implicated with the large hypoxic zone in the Gulf of Mexico, and *Pfiesteria*-induced fish kills and human health problems in the coastal waters of several East Coast States as well as events in the Gulf States.

Nutrient Strategy

A number of States have identified the specific concentration levels at which nutrient overenrichment occurs in their waters, but many States have not adopted such nutrient criteria into their State water quality standards. As a result, nutrient overenrichment problems are underestimated and the response authorities of the Clean Water Act and other laws are not fully engaged. This Strategy describes the approach EPA will take for development of scientific information relating to nutrients (i.e., water quality criteria pursuant to Section 304(a) of the Clean Water Act) and to working with States to assure adoption of nutrient criteria into State water quality standards pursuant to Section 303(c) of the Clean Water Act.

The major elements of this strategy include:

- Use of regional and waterbody-type approach for the development of nutrient water quality criteria.
- Development of technical guidance documents that will serve as ''user manuals'' for assessing trophic state and developing nutrient criteria specific to a region and waterbody-type. These guidance documents will establish nutrient water quality criteria in the form of numerical regional target ranges. EPA expects States and Tribes to use these criteria as a basis for the development of nutrient provision of water quality standards. These water quality standards will provide a basis for a range of pollution control activities including NPDES permits and total maximum daily loads (TMDLs).
- Establishment of a EPA National Nutrient Team with Regional Nutrient Coordinators to development regional databases and to promote State and Tribal involvement.
- Monitoring and evaluation of the effectiveness of nutrient management programs as they are implemented.

Regional and Waterbody-Type Approach

There is a great deal of variability in nutrient levels and nutrient responses throughout the country. This natural variability is due to differences in geology, climate and waterbody type. For these reasons, EPA's custom of developing water quality criteria guidance in the form of single numbers for nationwide application is not appropriate for nutrients. EPA believes that distinct geographic regions and types of aquatic ecosystems need to be evaluated differently and that criteria specific to those regions and ecosystems need to be developed.

Waterbody-Type Technical Guidance

An essential technical element of this strategy will be waterbody-type guidance documents describing the techniques for assessing the trophic state of a waterbody and methodologies for developing regional nutrient criteria. In addition, each technical document will provide criteria guidance under section 304(a) of the Clean Water Act in the form of Regional numerical target ranges for phosphorus, nitrogen, and other nutrient endpoints. EPA expects States and Tribes to use these target ranges as the basis for adopting nutrient criteria into water quality standards in the absence of more site-specifically developed water quality criteria and standards. EPA intends to use State databases to develop these regional target ranges, supplemented with new regional case studies and demonstration projects to provide additional information. EPA intends to complete these technical guidance documents by the end of the year 2001.

Revision of State Water Quality Standards

As technical guidance is developed and regional nutrient ranges are established, EPA expects States and Tribes to revise water quality standards to include appropriate regional nutrient criteria by waterbody type. Once adopted as part of State or Tribal water quality standards, the nutrient values become the basis for making many management decisions to reduce the overenrichment of our nation's waters, e.g., through the TMDL and NPDES permitting processes. These values used together with best management practices (BMPs) and other management techniques should form the basis of a State management program for nutrients.

EPA expects all States and Tribes to adopt and implement numerical nutrient criteria into their water quality standards by December 31, 2003. States and Tribes may accomplish this by developing their own regional criteria values in watersheds where applicable data are available or by using the EPA target nutrient ranges. EPA will review the new or revised standards under Section 303(c)(3) of the Clean Water Act. If EPA disapproves the new or revised standard submitted by a State or Tribe (e.g., because EPA determines that it is not scientifically defensible or is not protective of designated uses), or if EPA determines that a new or revised nutrient standard is necessary for a State or Tribe (e.g., because EPA determines that the State or Tribe has not demonstrated reasonable progress toward developing numerical nutrient standards), EPA will initiate rulemaking to promulgate nutrient criteria appropriate to the region and waterbody types. Any resulting water quality standard would apply until the State or Tribe adopts and EPA approves a revised standard.

National and Regional Nutrient Teams

EPA will provide additional technical and financial assistance to the Regions and States to accelerate the development of nutrient criteria. This will include the establishment of a National Nutrient Team which includes coordinators from each EPA Region. The Regional Coordinator will foster the development and implementation of State projects, databases, nutrient criteria and standards, and the award of financial assistance to States and Tribes to support these endeavors. Each coordinator will be responsible for nutrient management activities for her/his Region and its member States and Tribes consistent with decisions of the

national nutrient program. It is expected that each Regional coordinator will form their own teams which include State and Tribal representatives and other federal and local representatives, as needed, to develop nutrient databases and nutrient target ranges.

Monitoring and Evaluation

Once regulatory controls are in place, EPA and the States/Tribes will need to evaluate their effectiveness. The databases and monitoring systems, together with the derived criteria, should be used to assess actual progress toward eliminating overenrichment conditions.

Dated: June 18, 1998.

Robert Perciasepe,

Assistant Administrator for Water.

[FR Doc. 98–16941 Filed 6–24–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections; Comments Requested

June 18, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, 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 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; the accuracy of the Commissions burden estimates; ways to enhance the quality, utility, and clarity of the information collected and 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.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before August 24, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Jerry Cowden Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jcowden@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Jerry Cowden at 202–418–0447 or via internet at jcowden@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0228.

Title: Section 80.59 Compulsory ship station.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit, individuals or households, non-profit institutions, state and local governments.

Number of Respondents: 200.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 400 hours.

Frequency of Response: On occasion.

Total Annual Cost: 0.

Needs and Uses: The requirement contained in this rule section is necessary to implement the provisions of section 362(b) of the Communications Act of 1934, as amended, which permits the Commission to waive the required annual inspection of certain oceangoing ships for up to 30 days beyond the expiration date of a vessel's radio safety certificate, upon a finding that the public interest would be served. The information is used by the Engineer in Charge of FCC Field Offices to determine the eligibility of a vessel for a waiver of the required annual radio station inspection.

OMB Approval Number: 3060–0265.

Title: Section 80.868 Card of instructions.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit, state, local or tribal government, not-for-profit institutions.

Number of Respondents: 3,000.

Estimated Time Per Response: 1 hour per response.

Total Annual Burden: 300 hours.

Frequency of Response: On occasion.

Needs and Uses: The recordkeeping requirement contained in this rule section is necessary to insure that radiotelephone distress procedures are readily available to the radio operator on board certain vessels (300–1600 gross tons) required by the Communications Act of 1934, as amended, or the International Convention for Safety of Life at Sea to be equipped with a radiotelephone station. The information is used by a vessel radio operator during an emergency situation, and is designed to assist the radio operator to utilize proper distress procedures during a time when he or she may be subject to considerable stress or confusion.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–16829 Filed 6–24–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:31 a.m. on Monday, June 22, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Julie L. Williams (Acting Comptroller of the Currency), and concurred in by Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(9)(B) and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: June 22, 1998.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 98–17024 Filed 6–22–98; 4:57 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 224–200993–001

Title: Oakland-Yang Ming Terminal Use Agreement

Parties:

Port of Oakland Yang Ming Marine Transport Corporation

Synopsis: The proposed amendment allows Yang Ming's cargo handled at Howard Terminal to and from Cosco vessels to be treated as Yang Ming's cargo being handled at Seventh Street Terminal to and from Yang Ming vessels. Cosco's cargo handled at Seventh Street Terminal to and from Yang Ming vessels will be treated as Cosco cargo being handled at Howard Terminal. The term of the agreement continues to run through May 1, 2001.

Dated: June 19, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–16903 Filed 6–24–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freights forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

IFS Film Services, Inc., 6521 NW 87th Avenue, Miami, FL 33178, Officer: Mayde C. Montesano, Director.

Dated: June 22, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–16902 Filed 6–24–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Community Bank Minnesota Employee Stock Ownership Plan, Owatonna, Minnesota; to become a bank holding company by acquiring an additional 9.57 percent, for a total of 29.70 percent, of the voting shares of Owatonna Bancshares, Inc., Owatonna, Minnesota, and thereby indirectly acquire Community Bank Minnesota, Owatonna, Minnesota.

2. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Star Bancshares, Inc., Austin, Texas, and thereby indirectly acquire Star Bancshares of Nevada, Inc., Carson City, Nevada, and First State Bank, Austin, Texas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Independent Bankshares, Inc., Abiliene, Texas; to acquire 100 percent of the voting shares of Azle Bancorp, Azle, Texas, and thereby indirectly acquire Azle Holdings, Inc., Azle, Texas, and Azle State Bank, Azle, Texas.

2. McLaughlin Bancshares, Inc., Ralls, Texas; to acquire 100 percent of the voting shares of First Petersburg Bancshares, Inc., Petersburg, Texas, and thereby indirectly acquire First State Bank, Petersburg, Texas.

Board of Governors of the Federal Reserve System, June 19, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–16836 Filed 6–24–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–16–98]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Breast Cancer Incidence in an Occupational Cohort Exposed to Ethylene Oxide and in an Occupational Cohort Exposed to Polychlorinated Biphenyls (0920–0366)—National Institute for Occupational Safety and Health (NIOSH)—Extension—Breast cancer is the most common incident cancer among U.S. women, and the second leading cause of cancer mortality in U.S. women. Increasing numbers of women are employed outside the home, yet few studies of breast cancer etiology have addressed occupational and environmental chemical exposures, and

many cancer studies of industrial cohorts have excluded women. This study will provide information concerning: (1) the incidence of breast cancer in a cohort of women exposed to ethylene oxide (ETO), and (2) the incidence of breast cancer in a cohort of women exposed to polychlorinated biphenyls (PCBs). Both compounds are suspected breast carcinogens. These two cohorts have been previously assembled by NIOSH, and each represents the largest and best defined female study cohort in the U.S. for the respective exposure.

All women in the existing NIOSH ethylene oxide cohort (n=9,929) and PCB cohort (13,736) will be enrolled in the study. For both cohorts, data from personnel records has been coded into a computer file containing demographic, and work history information. This information will be used to estimate workplace exposures. Vital status has been determined through automated data sources. Questionnaires are currently being mailed to each living cohort member to obtain information on breast cancer incidence and risk factors for breast cancer. For deceased cohort members, next-of-kin will be asked to provide this information. Other record sources such as death certificates and population-based cancer incidence registries will also be used to identify cancer cases. The diagnosis will be confirmed by medical records. Each questionnaire will take approximately 30 minutes to complete. Total annual burden hours are 12,500.

Respondents	Number of respondents	Number of responses/ respondent	Avg. burden/response (in hours)	Total burden (in hours)
Workers	23,000	1	.50	11,500
Medical providers	2,000	1	.50	1,000

2. Tests and Requirements for Certification and Approval of Respiratory Protective Devices—42 CFR 84—Regulation—(0920–0109)—Extension—The regulatory authority for the National Institute for Occupational Safety and Health (NIOSH) certification program for respiratory protective devices is found in the Mine Safety and Health Amendments Act of 1977 (30 U.S.C. 577a, 651 et seq., and 657(g)) and the Occupational Safety and Health Act of 1970 (30 U.S.C. 3, 5, 7, 811, 842(h), 844). These regulations have, as their basis, the performance tests and criteria for approval of respirators used by millions of American construction workers, miners, painters, asbestos removal workers, fabric mill workers, and fire fighters. In addition to benefitting industrial workers, the improved testing requirements also benefit health care workers implementing the current CDC Guidelines for Preventing the Transmission of Tuberculosis. Regulations of the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) also require the use of NIOSH-approved respirators.

NIOSH, in accordance with implementing regulations 42 CFR 84: (1) Issues certificates of approval for respirators which have met improved construction, performance, and protection requirements; (2) establishes procedures and requirements to be met in filing applications for approval; (3) specifies minimum requirements and methods to be employed by NIOSH and by applicants in conducting inspections, examinations, and tests to determine effectiveness of respirators; (4) establishes a schedule of fees to be charged applicants for testing and certification, and (5) establishes approval labeling requirements. Total annual burden hours are 177,968.

Respondents (section/data type)	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)	Total burden (in hours)
84.11/Applications	56	14.0	63.56	49,831
84.33/Labeling	56	14.0	1.54	1,207
84.35/Modifications	56	14.0	79.45	62,289
84.41/Reporting	56	14.0	22.70	17,797
84.43/Record keeping	56	14.0	56.75	44,492
84.257/Labeling	56	14.0	1.50	1,176
84.1103/Labeling	56	14.0	1.50	1,176

Dated: June 18, 1998.

Charles W. Gollmar,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–16752 Filed 6–24–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0429]

Constantine I. Kostas; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) denies a request for a hearing and issues a final order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Constantine I. Kostas, Nine Cedar Mill Rd., Lynnfield, MA 01940, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on its finding that Dr. Kostas was convicted of felonies under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product, and conduct relating to

the regulation of a drug product under the act.

EFFECTIVE DATE: June 25, 1998.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leanne Cusumano, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

Constantine I. Kostas, a former clinical investigator retained by a pharmaceutical drug manufacturer to conduct two investigational drug studies, pled guilty and was sentenced on October 13, 1988, to one count of mail fraud and one count of making false statements to a governmental agency. These are Federal felony offenses under 18 U.S.C. 1341 and 1001, respectively. These convictions were based upon Dr. Kostas' submission of fabricated patient case report forms to the sponsor of investigational drug studies from whom Dr. Kostas received, via the U.S. Postal Service, payments for conducting the clinical studies.

On December 14, 1992, Dr. Kostas received a certified letter from FDA offering Dr. Kostas an opportunity for a hearing on the agency's proposal to issue an order under the Generic Drug Enforcement Act (GDEA), section 306(a)(2) of the act (21 U.S.C. 335a(a)(2)). Under section 306(a)(2) of the act, an individual who has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product, or conduct relating to the regulation of a drug product, shall be debarred from providing services in any capacity to a person that has an approved or pending drug product application. FDA found that Dr. Kostas was subject to debarment under section 306(a)(2) of the act because he had been convicted of Federal felony offenses for conduct related to drug product development, approval, and regulation.

The certified letter informed Dr. Kostas that his request for a hearing could not rest upon mere allegations or denials, but must present specific facts showing that there was a genuine and substantial issue of fact requiring a hearing. The certified letter further notified Dr. Kostas that if it conclusively appeared from the face of the information and factual analysis in his request for a hearing that there was no genuine and substantial issue of fact that precluded the order of debarment, FDA would enter summary judgment against him and deny his request for a hearing in accordance with procedures set forth at part 12 (21 CFR part 12).

Dr. Kostas requested a hearing in a letter dated February 12, 1993, based upon three grounds. His request, in its entirety, states:

Dr. Kostas, by his attorney, requests a hearing on the following grounds:

(1) The law, as applied to Dr. Kostas, violates the expost facto clause of the Constitution of the United States. Art. I, Sec. 9, cl. 3 of the Constitution. Debarment is, in effect, a criminal forfeiture and an increased punishment which could not have been imposed at the time of Dr. Kostas' conviction.

In addition, Dr. Kostas' offer of plea of guilty to the criminal charges was tendered and accepted with no mention of P.L. 102–282 [GDEA]; and

(2) The pleas of guilty which prompted your letter of December 9, 1992, were based upon conduct last occurring in 1985. The conduct was not discovered by the government, but was reported voluntarily by Dr. Kostas. In addition, Dr. Kostas immediately, that is in 1985, returned all funds to [the pharmaceutical company]. The pleas of guilty did not result in any incarceration and Dr. Kostas did not lose his license to practice. Since in excess of seven years has passed, application of 21 U.S.C. § 335a would be violative of both the ex post facto and due process clauses of the Constitution.

(3) Dr. Kostas hereby incorporates all of the reasons in the preceding paragraph and states additionally that precepts of constitutional law require statutes such as 21 U.S.C. § 335a to be applied prospectively and with the rule of lenity.

For all of the foregoing reasons, pursuant to 21 C.F.R. § 12.22, Dr. Kostas requests a hearing on the above issues. Undersigned contemplates that briefing of issues and argument may be necessary, insofar as the facts are not in dispute.

Although Dr. Kostas concedes that he was convicted of felonies under Federal law and that no facts are in dispute, he argues that FDA's proposal to debar him is unconstitutional. The Deputy Commissioner for Operations has considered Dr. Kostas' claims and, for the reasons discussed below, concludes that they are unpersuasive and fail to raise a genuine and substantial issue of fact requiring a hearing.

II. Dr. Kostas' Claims in Support of His Hearing Request

A. The Ex Post Facto Argument

In his hearing request, Dr. Kostas argues that the ex post facto clause of the U.S. Constitution prohibits FDA from retrospectively applying section 306(a)(2) of the act to him. He states that ''debarment is, in effect, a criminal forfeiture and an increased punishment which could not have been imposed at the time of Dr. Kostas' conviction.''

An ex post facto law is one that reaches back to punish acts that occurred before enactment of the law or that adds a new punishment to one that was in effect when the crime was committed. (*Ex Parte Garland*, 4 Wall. 333, 377, 18 L. Ed. 366 (1866); *Collins* v. *Youngblood*, 497 U.S. 37 (1990).)

Dr. Kostas' argument that application of the mandatory debarment provisions of the act is prohibited by the ex post facto clause is unpersuasive, because the intent of debarment is remedial, not punitive. Congress created the GDEA in response to findings of fraud and corruption in the generic drug industry. Both the language of the GDEA and its legislative history reveal that the purpose of the debarment provisions set forth in the GDEA is ''to restore and ensure the integrity of the abbreviated new drug application approval process and to protect the public health.'' (See section 1, Pub. L. 102–282, GDEA of 1992.) In a suit challenging a debarment order issued by FDA (58 FR 69368, December 30, 1993), the constitutionality of the debarment provision was upheld against a challenge under the ex post facto clause. The reviewing court affirmed the remedial character of debarment:

> Without question, the GDEA serves compelling governmental interests unrelated to punishment. The punitive effects of the GDEA are merely incidental to its overriding purpose to safeguard the integrity of the generic drug industry while protecting public health.

(*Bae* v. *Shalala*, 44 F.3d 489, 493 (7th Cir. 1995); see also *DiCola* v. *Food and Drug Administration*, 77 F.3d 504 (D.C. Cir. 1996).) Because the intent of the GDEA is remedial rather than punitive, Dr. Kostas' argument that the GDEA violates the ex post facto clause must fail. (See *Bae* v. *Shalala*, 44 F.3d at 496–497.)

Dr. Kostas also states that his ''offer of plea of guilty to the criminal charges was tendered and accepted with no mention or contemplation of [debarment].'' It is not the function of the plea agreement to provide notice of any subsequent civil or administrative actions. Nor do the terms of the plea agreement preclude subsequent civil or administrative actions against Dr. Kostas. Therefore, Dr. Kostas' claim that the plea agreement does not mention debarment fails to raise a genuine and substantial issue of fact.

B. The Due Process Argument

Dr. Kostas argues that, because his debarment is based upon conduct

occurring over 7 years before the agency proposed to debar him, and because of other mitigating factors, his debarment also violates the due process clause (presumably the fifth amendment) of the U.S. Constitution. Under the fifth amendment, no person shall be deprived of life, liberty, or property without due process of law. Dr. Kostas' due process claim appears grounded upon an alleged retroactive deprivation of future employment.

The Supreme Court has said that retroactive legislation must be supported by ''a legitimate legislative purpose furthered by rational means.'' (*Pension Benefit Guar. Corp*. v. *R. A. Gray & Co.*, 467 U.S. 717, 729 (1984).) The ''judgments about the wisdom of such legislation remain within the exclusive province of the legislative and executive branches.'' *Id*. As discussed above, Congress intended the GDEA to be remedial. The GDEA prohibits certain individuals from providing services to a person who has an approved or pending drug application in order to meet the legitimate regulatory purpose of restoring the integrity of the drug approval and regulatory process and protecting the public health. In addition, the remedial nature of the GDEA is not diminished simply because the GDEA deters debarred individuals from future misconduct. (*U.S*. v. *Halper*, 109 S.Ct. 1892, 1901, n.7 (1989); *Bae* v. *Shalala*, 44 F.3d 489, 493 (7th Cir. 1995).)

Dr. Kostas argues that because he was not incarcerated and did not lose his ''license to practice,'' and because he voluntarily reported his conduct and provided restitution to the pharmaceutical company, debarment under the GDEA would violate the due process clauses of the Constitution. This list of mitigating circumstances suggests a ''takings'' argument based upon an expectation of future employment. However, the expectation of employment is not recognized as a protected property interest under the fifth amendment. (*Hoopa Valley Tribe* v. *Christie*, 812 F.2d 1097, 1102 (9th Cir. 1986); *Chang* v. *United States*, 859 F.2d 893, 896–897 (Fed. Cir. 1988).) One who voluntarily enters a pervasively regulated industry, such as the pharmaceutical industry, and then violates its regulations, cannot successfully claim that he has a protected property interest when he is no longer entitled to the benefits of that industry. (*Erikson* v. *United States*, 67 F.3d 858 (9th Cir. 1995).) Thus, debarment for a 1985 felony conviction does not violate the ex post facto or due process clauses of the Constitution. In addition, Dr. Kostas' list of mitigating circumstances does not raise a genuine or substantial issue of disputed fact.

C. Prospective Application and the Rule of Lenity Arguments

Finally, Dr. Kostas argues that constitutional law requires that the GDEA be applied ''prospectively'' and with ''the rule of lenity.'' Again Dr. Kostas' arguments are unpersuasive. The GDEA, as remedial legislation, was intended by Congress to be applied, in part, to conduct that occurred before enactment of the legislation. The express language of section 306(a)(1) of the act requires that mandatory debarment apply only prospectively to a person ''other than an individual'' who has been convicted of a Federal felony offense ''after the date of enactment of this section [section 306(a)(1)].'' By contrast, section 306(a)(2) of the act, which applies only to individuals, omits the limiting language regarding prospective application, indicating a legislative intent to apply this provision retrospectively. When one of two closely related subsections within the same act contains particular language that is omitted from the other subsection, ''it is generally presumed that Congress acted intentionally and purposely in the disparate inclusion or exclusion.'' (*Russello* v. *U.S*., 464 U.S. 16, 24 (1983) (citations omitted); *USA* v. *Olin Corp*., 107 F.3d 1506, 1513 (11th Cir. 1997).) Such retrospective remedial legislation is not unlawful so long as the ''retroactive application of the legislation is itself justified by a rational legislative purpose.'' (*Pension Benefit Guar. Corp*. v. *R. A. Gray & Co*., 467 U.S. at 730.) As discussed previously, debarment under the GDEA meets the legitimate regulatory purpose of restoring the integrity of the drug review process and protecting the public health.

Dr. Kostas also states that constitutional law requires that the ''rule of lenity'' apply to his case. The rule of lenity applies in criminal cases and requires a sentencing court to impose the lesser of two penalties where there is an actual ambiguity over which penalty should apply. (*U.S*. v. *Canales*, 91 F.3d 363 (2nd Cir. 1996).) The rule of lenity is not applicable here because debarment under the GDEA is neither a criminal law nor a penalty. It is a civil, remedial law intended to protect the drug review process and the public health. Moreover, section 306(a)(2) of the act requires debarment in this case and does not provide the agency with discretion to implement a different remedy.

None of Dr. Kostas' arguments raises a genuine and substantial issue of fact regarding his conviction. Instead, Dr. Kostas concedes that there are no facts in dispute. Moreover, Dr. Kostas' constitutional arguments are without merit. Accordingly, the Deputy Commissioner for Operations denies Dr. Kostas' request for a hearing under 21 CFR 12.28.

III. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act and under authority delegated to him (21 CFR 5.20), finds that Dr. Constantine I. Kostas has been convicted of felonies under Federal law for conduct: (1) Relating to the development or approval, including the process for development or approval, of a drug product (section 306(a)(2)(A) of the act); and (2) relating to the regulation of a drug product (306(a)(2)(B)) of the act)).

As a result of the foregoing findings, Dr. Kostas is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective June 25, 1998 (sections 306(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) of the act (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly uses the services of Dr. Kostas in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Dr. Kostas, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application submitted by Dr. Kostas or with his assistance during his period of debarment (section 306(c)(1)(B) of the act).

Dr. Kostas may file an application to attempt to terminate his debarment under section 306(d)(4)(A) of the act. Any such application, if filed, will be reviewed under the criteria and processes set forth in section 306(d)(4)(C) and (D) of the act. Any such application should be identified with Docket No. 92N–0429 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions

may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 18, 1998.

Michael A. Friedman,

Acting Commissioner of Food and Drugs.

[FR Doc. 98–16850 Filed 6–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective 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: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 29, 30, and 31, 1998, 8 a.m. to 5 p.m.

Location: Gaithersburg Hilton, Grand Ballroom, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Ermona B. McGoodwin, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss documents on ''Guidance to Industry'' being developed by the Office of Drug Evaluation IV's Division of Anti-Infective Drug Products and the Division of Special Pathogens and Immunologic Drug Products. Copies of these draft guidance documents can be obtained from the Center for Drug Evaluation and Research (HFD–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573, or requested by FAX at 301–827–4577. Electronic versions of these guidance documents will be available via Internet using the World Wide Web (www). To access the documents on the www, connect to CDER Home Page at http://www.fda.gov/cder/guidance.htm.

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 July 22, 1998. Oral presentations from the public will be scheduled between approximately 1 p.m. and 1:30 p.m. on July 29, 30, and 31, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 22, 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: June 18, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–16934 Filed 6–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Arthritis 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: Arthritis 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 August 7, 1998, 8 a.m. to 5 p.m.

Location: Bethesda Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Kathleen R. Reedy or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12532. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss the safety and efficacy of new drug application 20–905 Arava (leflunomide, Hoechst Marion Roussel, Inc., Germany) for the treatment of rheumatoid arthritis.

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 July 30, 1998. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 30, 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: June 15, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–16837 Filed 6–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Drugs Subcommittee of the Dermatologic and Ophthalmic 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: Ophthalmic Drugs Subcommittee of the Dermatologic and Ophthalmic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 22, 1998, 8 a.m. to 5 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Tracy Riley or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12534. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 20–961, Vitravene® (fomivirsen sodium intravitreal injection, ISIS Pharmaceuticals), for treatment of cytomegalovirus (CMV) retinitis in patients with acquired immune deficiency syndrome (AIDS).

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 July 17, 1998. Oral presentations from the public will be scheduled between approximately 8 a.m. and 8:30 a.m., and between approximately 1 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 17, 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: June 12, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–16851 Filed 6–24–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; Altered System of Records

AGENCY: National Institutes of Health, HHS.

ACTION: Notification of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the National Institutes of Health (NIH) is publishing a notice of proposal to alter an existing system of records 09–25–0036, ''Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/OER and HHS/NIH/CMO.'' The system is altered by including contractor past performance information as a new category of records; adding consultants and contractors as individuals covered by the system; and including a new routine use which allows NIH to share information it collects on contractor past performance information with other Federal agencies.

DATES: The NIH invites interested parties to submit comments on the proposed internal and routine uses on or before July 27, 1998. The NIH sent a Report of the Altered System to the Congress and to the Office of Management and Budget (OMB) on June 19, 1998. The alteration of this system of records will be effective 40 days from the date submitted to the OMB, unless NIH receives comments which would result in a contrary determination.

ADDRESSES: Please submit comments to: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, 301–496–2832. (This is not a toll free number.)

Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, 301–496–2832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The National Institutes of Health (NIH) proposes to alter an existing system of records 09–25–0036, ''Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/DRG and HHS/NIH/CMO.'' The system is altered by including contractor past performance information as a new category of records; adding consultants and contractors as individuals covered by the system; including a new routine use which allows NIH to share information it collects on contractor past performance information with other Federal agencies; and editorial changes to accommodate normal updating changes.

The purposes of this system of records are to (1) support centralized grant programs of the Public Health Service by providing services in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting; maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program; maintain current and historical information pertaining to the establishment of chartered advisory committees of the National Institutes of Health and the appointment or designation of their members; and maintain current and historical information pertaining to contracts awarded by the National Institutes of Health, and performance evaluations on NIH contracts and contracts awarded by other Federal agencies that participate in the NIH Contractor Performance System.

This system will comprise records that contain names, applications, grant or contract ID number, contractor tax ID number, awards, trainee appointments, current and historical information pertaining to chartered advisory committees, and past performance information pertaining to contractors.

The records in this system will be maintained in a secure manner compatible with their content and use. NIH and contractor staff will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act regulations. The System Managers will control access to the data. Authorized users will be granted access only to those records within their specific area of responsibility. Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Authorized users are NIH extramural and committee management staff, NIH contract management staff, and Federal acquisition personnel. One-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the System Manager. Records may be stored on hard copy, discs and magnetic tapes, and in other machine-readable format, regardless of physical form or characteristics. Manual and computerized records will be maintained in accordance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' supplementary Chapter PHS hf:45–13, the Department's Automated Information System Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the System Manager or other

authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, and similar limited access systems. Access to the contractor performance files is restricted through the use of secure socket layer encryption and through an IBM password protection system. Physical access to work areas is restricted to employees or authorized contractors with a valid ''need-to-know.''

The routine uses proposed for this system are compatible with the stated purposes of the system. The first routine use allows disclosure to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards. The second routine use allows disclosure to the cognizant audit agency for auditing. The third routine use allows disclosure to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained. The forth routine use allows disclosure to qualified experts not within the definition of Department employees as prescribed in Department regulations for opinions as a part of the application review process. The fifth routine use allows disclosure to a Federal agency, in response to its request, in connection with the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter. The sixth routine use allows disclosure of contractor past performance information to a Federal agency upon request and allows routine access to contractor past performance information to Federal agencies that subscribe to the NIH Contractor Performance System. The seventh routine use allows disclosure for a research purpose as authorized by the Department or required by law. The eighth routine use allows disclosure to a private contractor or Federal agency for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. The ninth routine use allows disclosure to a grantee or contract institution in connection with performance or administration under the conditions of the particular award or contract. The tenth routine use allows disclosure to the Department of Justice, or to a court or other adjudicative body, from this system of records when HHS determines that the records are relevant and necessary to the proceeding and would help in the effective representation of the governmental party.

We have also made editorial changes throughout the System Notice to enhance clarity and specificity and to accommodate normal updating changes.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: June 5, 1998.

Anthony L. Itteilag,

Deputy Director for Management.

SYSTEM NAME:

Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/OER and HHS/NIH/CMO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Rockledge Centre II, 6701 Rockledge Drive, Bethesda, MD 20817

Building 12, NIH Computer Center, 9000 Rockville Pike, Bethesda, MD 20892

Building 31, Room 3B–59, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators; program directors; program and projects staff and others named in the application; National Research Service Awards (NRSA) trainees and fellows; research career awardees; chartered advisory committee members; contractor personnel; subcontractor personnel; and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Funding applications, awards, associated records, trainee appointments, current and historical information pertaining to chartered advisory committees, and past performance information pertaining to contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 217a, 241, 282(b)(6), 284a, and 288. 48 CFR Subpart 15.3 and Subpart 42.15.

PURPOSE(S) OF THE SYSTEM:

(1) To support centralized grant programs of the Public Health Service. Services are provided in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting. The database is used to provide complete, accurate, and up-to-date reports to all levels of management.

(2) To maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program.

(3) To maintain current and historical information pertaining to the establishment of chartered advisory committees of the National Institutes of Health and the appointment or designation of their members.

(4) To maintain current and historical information pertaining to contracts awarded by the National Institutes of Health, and performance evaluations on NIH contracts and contracts awarded by other Federal agencies that participate in the NIH Contractor Performance System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards (abstract of research projects and relevant administrative and financial data).

2. Disclosure may be made to the cognizant audit agency for auditing.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department regulations for opinions as a part of the application review process.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter.

6. Disclosure of past performance information pertaining to contractors may be made to a Federal agency upon request. In addition, routine access to past performance information on contractors will be provided to Federal agencies that subscribe to the NIH Contractor Performance System.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the

research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) justifies the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining that information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; and (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private contractor or Federal agency for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. The contractor or Federal agency will be required to maintain Privacy Act safeguards with respect to these records.

9. Disclosure may be made to a grantee or contract institution in connection with performance or administration under the conditions of the particular award or contract.

10. Disclosure may be made to the Department of Justice, or to a court or other adjudicative body, from this system of records when (a) HHS, or any component thereof; of (b) any HHS officer or employee in his or her official capacity; or (c) any HHS officer or employee in his or her individual capacity when the Department of Justice (or HHS, where it is authorized to do so) his agreed to represent the officer or employee; or (d) the United States or any agency thereof where HHS determines that the proceeding is likely to affect HHS or any of its components, is a party to proceeding or has any interest in the proceeding, and HHS determines that the records are relevant and necessary to the proceeding and would held in the effective representation of the governmental party.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on hard copy, discs and magnetic tapes, and in other machine-readable format, regardless of physical form or characteristics.

RETRIEVABILITY:

Records are retrieved by name, application, grant or contract ID number, and contractor tax ID number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to NIH extramural and committee management staff, NIH contract management staff, and Federal acquisition personnel. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the System Manager.

2. *Physical Safeguards:* Physical access to Office of Extramural Research (OER) work areas is restricted to OER employees. Physical access to Office of Contracts Management (OCM) work areas is restricted to OCM employees. Physical access to Committee Management Office (CMO) work areas is restricted to CMO employees. Access to the contractor performance files is restricted through the use of secure socket layer encryption and through an IBM password protection system. Only authorized government contracting personnel are permitted access. Access is monitored and controlled by permitted access. Access is monitored and controlled by OCM.

3. *Procedural Safeguards:* Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the System Manager or other authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, and similar limited access systems.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' supplementary chapter PHS hf: 45–13, and Part 6, ''ADP Systems Security,'' of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—''Keeping and Destroying Records,'' item 4000–A–2, which allows records to be destroyed when no longer needed for administrative purposes. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS AND ADDRESSES:

For extramural awards:
Director, Extramural Information Systems, OD/OER/OPERA, Rockledge II, Room 2172, Bethesda, MD 20892
For chartered Federal advisory committees of the National Institutes of Health:
NIH Committee Management Officer, Building 31, Room 3B–59, 31 Center Drive, Bethesda, MD 20892
For contracts:
Office of Contracts Management, 6100 Executive Boulevard, Room 6D01, Rockville, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicant institution, individual, individual's educational institution and references, and participating Federal acquisition personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–16914 Filed 6–24–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Grant Award to the Department of Community Medicine and Health Care, University of Connecticut

AGENCY: Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Availability of grant funds for the Department of Community Medicine and Health Care, University of Connecticut.

SUMMARY: This notice is to inform the public that CSAT is making available approximately $200,000 for an award in FY 1998 to the University of Connecticut Department of Community Medicine and Health Care to develop knowledge concerning the effectiveness of primary care referral and behavioral health treatment for alcohol dependence in managed care. Eligibility for this program is limited to the Department of Community Medicine and Health Care, University of Connecticut. Using Robert Wood Johnson funding, the University of Connecticut has already implemented an experimental design research program on the cost effectiveness of alcohol screening and brief intervention in six managed care settings. This cross-site study in managed care settings is unique in its design and scope. However, none of the study settings are testing the cost effectiveness of Motivational Enhancement Therapy (MET) vs. standard alcoholism treatment. SAMHSA/CSAT, by means of this relatively small investment in this existing University of Connecticut program, will be able to capitalize on this unique opportunity to test the cost effectiveness on different models of alcoholism treatment for primary care vs. non primary care referred patients in managed care settings within the context of the existing Robert Wood Johnson funded study protocol. It is for these reasons, and in order to obtain the benefits of the additional information for the affected provider communities, that only the University of Connecticut is invited to apply. The application will be considered for funding on the basis of its overall technical merit as determined through the peer and CSAT National Advisory Council review processes.

Funding from CSAT will support supplemental evaluation activities in three Robert Wood Johnson supported screening and brief intervention (SBI) study sites. These sites will extend their current evaluation studies, to include the following: (l) implement data information systems to track patients who are referred by the primary care practices into treatment; (2) evaluate the cost effectiveness of primary care physician vs. primary care intervention specialist referrals for alcohol dependence and (3) evaluate the cost effectiveness of MET vs. standard treatment for alcohol dependent patients.

Authority: The award will be made under the authority of Section 501(d)(5) of the Public Health Service Act, as amended (42 U.S.C. 290aa). The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.230.

Contact: Dr. Mady Chalk, Director, Office of Managed Care, Center for Substance Abuse Treatment, SAMHSA, Rockwall II, 7th floor, 5600 Fishers Lane, Rockville, MD 20857, 301) 443–8796.

Dated: June 19, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–16932 Filed 6–24–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA) Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in July 1998.

Summaries of the meetings and rosters of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Policy and Program Coordination, Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individuals named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 22, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: July 22, 1998, 8:30 a.m.–10:00 a.m.

Panel: Center for Mental Health Services Minority Fellowship Program SM98–008.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: July 22, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway , Arlington, VA 22202.

Closed: July 22, 1998, 10:30 a.m.–12:00 p.m.

Panel: Center for Mental Health Services Cooperative Agreement for a Technical Assistance Center SM 98–011.

Contact: Kenneth D. Howard, 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 27–30, 1998, 9:00 a.m.–5:00 p.m., July 31, 1998, 9:00 a.m.—adjournment

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: July 27–30, 1998, 9:00 a.m.–5:00 p.m., July 31, 1998, 9:00 a.m.—adjournment.

Panel: Statewide Consumer and Consumer Supporter Networking Grants SM 98–013.

Contact: Clark K. Lum, Room 17–89, Parklawn Building, Telephone 301–443–9919, FAX: 301–443–3437.

Dated: June 22, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–16978 Filed 6–24–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: George Hogan, Jr., Okeechobee, FL, PRT–844074

The applicant requests a permit to authorize interstate and foreign commerce, export, and cull of excess male barasingha (*Cervus duvauceli*) and Arabian oryx (*Oryx leucoryx*) from his captive herd for the purpose of enhancement of survival of the species. This notice shall cover a period of three years. Permittee must apply for renewal annually.

Applicant: End of the Road Bird Ranch, Millington, MI, PRT–844072

The applicant requests a permit to authorize the import of one male Elliot's pheasant (*syrmaticus ellioti*) and two female brown eared pheasants (*Crossoptilon mantchuricum*) from Old House Bird Gardens, Reading, England, for the purpose of enhancement of the survival of the species through propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office by July 27, 1998: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: June 19, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–16871 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan (EA/HCP) and Receipt of Application for Incidental Take Permit for Construction of One Single Family Residence on 0.75 Acre of the 18.79 acres on Spicewood Springs Road in Travis County, TX

SUMMARY: Daniel O. Shelley (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit numbers PRT–840322. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered golden-cheeked warbler (Dendroica chrysoparia). The proposed take would occur as a result of the construction of one single family residence on Spicewood Springs Road, Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10c of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before July 27, 1998.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30), U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application(s) and EA/HCPs should be submitted to the Field Supervisor, Ecological Field Office, Austin, Texas at the above address. Please refer to permit number PRT–840322 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Christina Longacre at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Daniel O. Shelley plans to construct a single family residence on Spicewood Springs Road Austin, Travis County, Texas. This action will eliminate less than one acre of land and will indirectly impact less than eight additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the Balcones Canyonlands Preserve to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Dated: June 16, 1998.

Renne Lohoefener,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 98–16852 Filed 6–24–98; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits for Marine Mammals

On March 4, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 43, Page 10931, that an application had been filed with the Fish and Wildlife Service by John Kloosterman, Tucson, AZ, for a permit (PRT–839518) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Baffin Bay population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on June 4, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 19, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 53, Page 13423, that an application had been filed with the Fish and Wildlife Service by Fred D. Rich, Portland, TX, for a permit (PRT–840250) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on June 4, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 19, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 53, Page 13423, that an application had been filed with the Fish and Wildlife Service by Robert L. Zachrich, Holgate, OH, for a permit

(PRT–840287) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on June 4, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 4, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 43, Page 10931, that an application had been filed with the Fish and Wildlife Service by the Jacksonville Field Office, USFWS, Jacksonville, FL, for renewal and amendment of a permit (PRT–770191) for enhancement of West Indian manatees (*Trichechus manatus*) through recovery, rehabilitation and release.

Notice is hereby given that on May 13, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On April 9, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 63, Page 17436, that an application had been filed with the Fish and Wildlife Service by the Long Beach Aquarium of the Pacific, Long Beach, CA, for a permit (PRT–840350) for enhancement of two southern sea otters (*Enhydra lutris nereis*) through public education.

Notice is hereby given that on June 1, 1998, the application request was withdrawn. The Service has authorized the Long Beach Aquarium to maintain these sea otters for continued rehabilitation under section 109(h) of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*).

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: June 19, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–16872 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1220–00]

Emergency Closure of the Lordsburg Playa to Off-Highway Vehicles (OHV), Hidalgo County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency closure.

SUMMARY: Notice is hereby given that effective immediately, the Las Cruces Field Office is implementing emergency closure of an existing OHV area known as the Lordsburg Playa. The area is closed to all vehicle use except for administrative purposes. This closure extends to both motorized and non-motorized vehicles, including landsail craft. This action is taken to aid in reducing the blowing dust from the Lordsburg Playa across Interstate Highway 10 west of Lordsburg, New Mexico. The dust storms have caused four fatalities on this portion of the Interstate and resulted in closure of the Interstate on 5 consecutive days since June 13. The authority for this emergency closure is 43 CFR 8364.1: Closure and Restriction Orders.

The following public land is affected by the closure:

T.23 S., R.20 W., NMPM
Sections 3, 4, 5, 6, 7, 8, 9, 10, all;
Section 11, W½;
Sections 14, 15, 17, 18, 19, 20, 21, 22, 23, all;
Section 26, N½;
Section 27, NE¼NE¼, W½E½, W½, SE¼SE¼;
Sections 28, 29, 30, 31, 33, all;
Section 34, W½.

T.24 S., R.20 W., NMPM
Section 5, N½, N½S½, SW¼SW¼;
Section 6, all.

DATES: This closure is effective June 19, 1998 and shall remain in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Jim C. McCormick, Assistant Field Office Manager for Renewable Resources, or Dwayne Sykes, Multi-Resource Staff Chief, 1800 Marquess, Las Cruces, New Mexico or call (505) 525–4300.

SUPPLEMENTARY INFORMATION: Violations of this closure are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed one year.

The purpose of this action is to reduce impacts to the soil on the Lordsburg Playa. Once the soil surface is disturbed, it is highly susceptible to wind erosion. Windy conditions this year have produced heavy dust storms in the area resulting in low visibility on nearby Interstate Highway 10. These conditions have caused 4 fatal accidents on the highway and required that the highway be closed for up to 9 hours per day for 5 consecutive days since June 13.

Copies of this closure order and maps showing the location of the area are available from the Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico, 88005 during normal business hours, Monday through Friday, 7:45 a.m. to 4:30 p.m.

Dated: June 19, 1998.

Josie Banegas,

Acting Field Manager, Las Cruces.

[FR Doc. 98–16899 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1430–01; NMNM99245]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action; R&PP Act Classification.

SUMMARY: The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to Las Cruces Public Schools under the provision of the R&PP Act, as amended (43 U.S.C. 869 et seq.). Las Cruces Public Schools propose to use the land for the K–2 Sunrise Elementary School and playgrounds.

T. 22 S., R. 3 E., NMPM
Sec. 18, Part of lot 11.
Containing 30 acres, more or less.

DATES: Comments regarding the proposed lease/conveyance or classification must be submitted on or before August 13, 1998.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Marvin M. James at the address above or at (505) 525–4349.

SUPPLEMENTARY INFORMATION: Lease or conveyance will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein. Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. On or before August 13, 1998, interested persons may submit comments regarding the proposed lease/conveyance or classification of the land to the Field Manager, Las Cruces Field Office, 1800 Marquess, Las Cruces, New Mexico 88005. 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.

Classification Comments

Interested parties may submit comments involving the suitability of the land for the K–2 Sunrise Elementary School. 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 the K–2 Sunrise Elementary School.

Dated: June 18, 1998.

Linda S.C. Rundell,

Field Manager, Las Cruces.

[FR Doc. 98–16900 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service; Sequoia and Kings Canyon National Parks.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) is proposing in 1998 to conduct a survey of community residents in one gateway community near Sequoia and Kings Canyon National Parks to refine those issues related to fire management and associated smoke that are most important to people who live there. This information collection will support ongoing fire management planning at Sequoia and Kings Canyon National Parks. Study packages that include the proposed survey questionnaires for these three proposed park studies have been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these three proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS goal in conducting this survey is to obtain park neighbors' perceptions of the existing fire management program and its effect on residents, the community, and the ecosystem. Results of the survey will assist NPS fire managers in their management decisions by providing information about the knowledge, needs and desires of the affected publics living in the community that is closest to the two parks. The intended effect of this information collection is to better inform park managers about issues important to park neighbors, to assist them in developing citizen education and involvement programs, and to help them formulate fire management decision making criteria for fires in the parks.

There were no public comments received as a result of publishing in the **Federal Register** a 60-day notice of intention to request clearance of information collection for this survey.

DATES: Public comments will be accepted on or before July 27, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to: William Kaage, Fire Management Officer, Sequoia and Kings Canyon National Parks, Three Rivers, California 93271–9700, phone: 209–565–3160.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before July 27, 1998.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGES SUBMITTED FOR OMB REVIEW, CONTACT: William Kaage, Fire Management Officer, Sequoia and Kings Canyon National Parks, Three Rivers, California 93271–9700, phone: 209–565–3160; e-mail: <william__kaage@nps.gov>.

SUPPLEMENTARY INFORMATION:

Title: Fire Management Planning Survey at Sequoia and Kings Canyon National Parks.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration date: To be requested.

Type of request: Request for new clearance.

Description of need: The National Park Service needs information concerning perceptions of residents who live near Sequoia and Kings Canyon National Parks regarding forest fire, fire ecology, regional fire management history and the effects of fire management practices on their community and the ecosystem. The proposed information to be collected from park neighbors is not available from existing records, sources, or observations either regularly or comprehensively.

Automated data collection: At the present time, there is no automated way to gather this information, since it includes asking gateway community residents about their perceptions of fire management in the region.

Description of Respondents: A sample of adult householders living in one gateway community near Sequoia and Kings Canyon National Parks.

Estimated average number of respondents: Each respondent will respond only one time, so the number

of responses will be the same as the number of respondents.

Estimated average burden hours per response: 25 minutes.

Frequency of response: 1 time per respondent.

Estimated annual reporting burden: The total burden for 1998 will be approximately 210 hours.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–16830 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget; Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service; Great Egg Harbor National Scenic and Recreation River.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) is proposing in 1998 to conduct mail and on-site surveys of visitors and landowners within the Great Egg Harbor River corridor to identify characteristics, use patterns, expectations, preferences, and perceptions of the area and its management.

	Estimated numbers of	
	Responses	Burden hours
Great Egg Harbor River Visitor and Landowner Mail Survey	1000	500
Great Egg Harbor River On-Site Visitor Survey	750	125
Total	1750	625

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these three proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS goal in conducting these surveys is to incorporate survey information into a General Management Plan to be used by local municipalities to guide planning and alternative management strategies for the Great Egg Harbor River.

There were no public comments received as a result of publishing in the Federal Register a 60 day notice of intention to request clearance of information collection for these two surveys.

DATES: Public comments will be accepted on or before July 27, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to: Troy Hall, Ph.D., Department of Forestry, Virginia Tech, Blacksburg, VA 24061–0324.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before July 27, 1998.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGES SUBMITTED FOR OMB REVIEW, CONTACT:

Troy Hall. Voice: 540–231–7264, Email: <tehall@vt.edu>.

SUPPLEMENTARY INFORMATION:

Titles: Great Egg Harbor River Visitor and Landowner Mail Survey. Great Egg Harbor River On-Site Survey.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of request: Request for new clearance.

Description of need: The National Park Service needs information to incorporate into the General Management Plan for the Great Egg Harbor National Scenic and Recreation River which will guide future management and planning for the Great Egg Harbor River.

Automated data collection: At the present time, there is no automated way to gather this information, since it includes asking visitors and landowners about their perceptions, expectations, and preferences in the Great Egg Harbor River corridor area.

Description of respondents: A sample of individuals who use the Great Egg Harbor River for recreation purposes (mail and on-site surveys) or who own riverfront property (mail survey only) along the River.

Estimated average number of respondents: 1000 (mail survey); 750 (on-site survey).

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 30 minutes (mail survey); 10 minutes (on-site survey).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 500 hours (mail survey); 125 hours (on-site survey).

Diane M. Cooke,

Inforamtion Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–16831 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Director's Order Concerning National Park Service Wildland Fire Management Activities

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, the information is made available for public review and comment. Director's Order #18 establishes new policies and procedural guidance concerning

wildland fire management activities for units of the National Park System.

Copies of the proposed guidance document will be made available upon request by writing: Fire Policy, National Park Service, National Interagency Fire Center, 3833 So., Development Avenue, Boise, Idaho 83705, or on the Internet at: http;//www.nps.gov/fire/fmpc/policy.htm.

DATES: Written comments will be accepted until August 24, 1998.

ADDRESSES: Comments should be addressed to: Fire Policy, National Park Service, National Interagency Fire Center, 3833 So. Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Linda Swain at the above address or by calling 208–376–5202.

SUPPLEMENTARY INFORMATION: NPS is revising the policies and procedures that guide its fire management activities. To accomplish this,the fire management policies included in ''National Park Service Management Policies'' (1988), are being revised and the *Wildland Fire Management Guidelines* (NPS–18, 1990) is being rescinded. The new policies will be issued as Director's Order #18, in conformance with the NPS's new system of internal guidance documents. Director's Order #18 will contain: (1) new policy statements to replace those now contained in the ''Management Policies'', and (2) new fire management procedures and standards that will be adhered to.

The 1994 wildland fire season created a renewed awareness and concern among Federal land management agencies and their constituents about the impacts of wildland fire. A Federal Wildland Fire Management Policy and Program Review was chartered by the Departments of Interior and Agriculture to ensure that uniform Federal policies and cohesive interagency and

Inter-governmental fire management programs existed.

Early in the review process, internal and external ideas were sought and broad program management issues were identified. The review was announced and input was requested in the Federal Register on January 3, 1995 (60 FR 95). The input received was used to develop a draft report. The draft report was published in its entirety in the **Federal Register** on June 22,1995 (60 FR 32485), and a 30-day public comment period was announced. The full report was also available on the Internet. Because of numerous requests to extend the comment period, the comment period did not end until September 25, 1995. A total of 308 comments were received on the draft report. The final report was accepted by the Secretaries of Interior and Agriculture on December 18, 1995. From this report, uniform policies and cohesive fire management programs have been developed by the Federal land management agencies.

Director's Order #18 *Wildlife Fire Management,* will establish fire management policy throughout the NPS in concert with cooperating agencies. Director's Order #18 will be considered for adoption by the NPS after the comment period closes.

Dated: June 15, 1998.

Chris Andress,

Chief, Ranger Activities Division.

[FR Doc. 98–16832 Filed 6–24–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 22, 1998.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) 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 this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen (202) 210–5096 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 send to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration, 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 Standards Administration.

Title: Employment Information Forms.

OMB Number: 1215–0001 (revision).

Form Numbers: WH–3 and WH–3 Spanish.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 37,000.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: 12,333 Hours.

Total annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Forms WH–3 and WH–3 Spanish are optional forms used to obtain information from individuals about alleged violations of various laws enforced by the Wage and Hour Division. It is also used as a screening device to determine whether the Division has jurisdiction in handling the alleged violations.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–16937 Filed 6–24–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclerance consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (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 Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information, Prohibited Transaction Class Exemption 81–8 for investment of plan assets in certain types of short-term investments. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written must be submitted to the office listed in **ADDRESSES** section below on or before August 24, 1998. The Department of Labor is particularly interested in comments which:

- Evalaute 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;
- 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.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information of any or all of the Agencies. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–56457, Washington, D.C. 20210. Telephone: (202) 219–4782 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 81–8 permits the investment of plan assets which involve the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan of certain types of short-term investments. These include investments in banker's acceptances, commercial paper, repurchase agreements, certificates of deposit, and bank securities. In absence of the exemption, certain aspects of these transactions might be prohibited by section 406 of the Employee Retirement Income Security Act (ERISA).

II. Current Actions

The Office of Management and Budget's approval of this ICR will expire on September 30, 1998. This existing collection of information should be continued because without the relieve provided by this exemption, plans would not be able to continue to invest plan assets in certain short term investments in debt obligations issued by certain persons who provide services to the plan or who are affiliated with such service providers. In most instances, the service providers engaging in such transactions with the plans are already providing services to the plan. Without this exemption, these types of transactions could not continue, causing disruption of the existing business practices of the plan and the businesses that service them.

In order to ensure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department has included in the exemption two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing. These repurchase agreements cover a period of one year or less and may be in the form of a blanket agreement for one year. The second requirement obliges the seller of such repurchase agreements to agree to provide financial statements to the plan at the time of the sale and as the statements are issued. The seller must also represent, either in the repurchase agreement or prior to each repurchase agreement transaction, that as of the time the transaction is negotiated, there has been no material adverse change in the seller's financial condition since the date the most recent financial statement was furnished that has not been disclosed to the plan fiduciary with whom the written agreement is made. This requirement may be met by the seller stating in the repurchase agreement that by making the sale they are representing that there is no material or adverse change their financial condition.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Class Exemption 81–8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

Type of Review: Extension of currently approved collection.

OMB Number: 1210–0061.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 18,245.

Total Responses: 91,225.

Frequency of Response: On occasion.

Total Annual Burden: 15,204 hours.

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: June 19, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 98–16936 Filed 6–24–98; 8:45 am]

BILLING CODE 4570–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, provides 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 (PRA 95) (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 Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of a currently approved collection of information included in rules regarding participant directed individual account plans under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA)

(29 CFR § 2550.404c–1). A copy of the proposed information collection request can be obtained by contacting the individual listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before August 24, 1998.

The Department of Labor (Department) 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.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 219–4782 (not a toll-free number), FAX (202) 219–4745.

SUPPLEMENTARY INFORMATION:

I. Background

Section 404(c) of ERISA provides that if a pension plan that provides for individual accounts permits a participant or beneficiary to exercise control over assets in his account and that participant or beneficiary in fact exercises such control, that the participant or beneficiary shall not be deemed to be a fiduciary by such exercise of control, and that no person otherwise a fiduciary shall be liable for any loss or breach which results from this exercise of control.

II. Current Actions

The Office of Management and Budget's approval of the ICR included in 29 CFR § 2550.404c–1 will expire on September 30, 1998. This regulation describes circumstances under which ERISA section 404(c) applies to a transaction involving a participant's exercise of control over this or her individual account. The opportunity to exercise control includes the opportunity to obtain sufficient information to make informed decisions with respect to investment alternatives. This regulation describes the type and extent of information required to be made available to participants and beneficiaries for this purpose. In the absence of such disclosures, participants might not be able to make informed decisions about the investment of their individual accounts, and persons who are otherwise fiduciaries with respect to these plans would not be afforded relief from the fiduciary responsibility provisions of Title I of ERISA with respect to these transactions. For these reasons, the Department intends to request an extension of the ICR.

Type of Review: Extension.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Regulation Regarding Participant Directed Individual Account Plans (ERISA section 404(c) Plans).

OMB Number: 1210–0090.

Affected Public: Business or other for-profit, Not-for-profit institutions, Individuals.

Total Respondents: 55,747.

Frequency: On occasion.

Total Responses: 11,000,050.

Estimated Total Burden Hours: 303,249.

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: June 22, 1998.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 98–16938 Filed 6–24–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations

ACTION: None.

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 other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (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 Pension and Welfare Benefits Administration is soliciting comments concerning the proposed extension of the collection of information included in the employee benefit plan claims procedure regulation issued pursuant to section 503 of the Employee Retirement Income Security Act of 1974 (ERISA) (29 CFR 2560.503–1). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 24, 1998. The Department of Labor 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;
- 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.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information of any or all of the Agencies. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 503 of ERISA provides that, pursuant to regulations promulgated by the Secretary of Labor, each employee benefit plan must provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied. This notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Each plan must also afford a reasonable opportunity for any participant or beneficiary whose claim has been denied to obtain a full and fair review of the denial by the appropriate named fiduciary of the plan.

The Department previously issued a regulation pursuant to section 503 that establishes certain minimum requirements for employee benefit plan procedures pertaining to claims. The ICR included in the claims procedure regulation generally requires timely written disclosures to participants and beneficiaries of employee benefit plans of information concerning the plan's claims procedures, the basis for the denial of a claim, and time limits for addressing or appealing the denial of a claim. These requirements are intended to ensure that plan administrators provide for a full and fair review of claims, and that plan participants and beneficiaries have information which is sufficient to allow them to exercise their rights under the plan.

II. Current Actions

The Office of Management and Budget's approval of this ICR will expire on September 30, 1998. On September 8, 1997, the Department published a Request for Information (September 8 RFI) (62 FR 47261) concerning the advisability of amending the existing regulation that establishes minimum requirements for employee benefit plan claims procedures. In the Department's Semiannual Regulatory Agenda published on April 27, 1998, the Pension and Welfare Benefits Administration indicated its intention to publish a Notice of Proposed Rulemaking with respect to employee benefit plan claims procedures in June, 1998 (63 FR 22240). While certain modifications to the claims procedure ICR may be anticipated in connection with proposed revision of these rules, estimates of burden associated with modifications currently under consideration are not yet available. The burden estimates shown in this notice are, therefore, based on the existing ICR.

To avoid unnecessary duplication of public comments, however, those comments received in response to the September 8 RFI that address burden associated with the claims procedure regulation will be treated as comments on this ICR.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Benefit Claims Procedure regulation pursuant to 29 CFR 2560.503–1.

Type of Review: Extension of a currently approved collection.

OMB Numbers: 1210–0053.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Respondents: 23,454.

Total Responses: 23,454.

Frequency of Response: On occasion.

Total Annual Burden: 7,063 hours.

Comments submitted in response to this comment request 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: June 22, 1998.

Gerald B. Lindrew,

Deputy Director, Pension and Welfare Benefits Administration, Office of Policy and Research.

[FR Doc. 98–16939 Filed 6–24–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral, and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Social, Behavioral, and Economic Sciences (1766).

Dates: July 27–29, 1998 and August 3–5, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Closed.

Contact Person: Mike McCloskey, Program Director, Division of Social, Behavioral, and Economic Research, National Science Foundation, 4201 Wilson Blvd., Suite 995, Arlington, VA 22230. Telephone: (703) 306–1732.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Knowledge and Distributed Intelligence (KDI) Program Solicitation as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: June 22, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–16926 Filed 6–24–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Central Hudson Gas & Electric Corporation (Nine Mile Point Nuclear Station, Unit 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an Order approving, under 10 CFR 50.80, an application regarding a transfer of control of possessory rights held by Central Hudson Gas & Electric Corporation (Applicant) under the operating license for Nine Mile Point Nuclear Station, Unit No. 2 (NMP2). The transfer would be to a holding company, not yet named, to be created over Applicant in accordance with a New York State Public Service Commission order, issued and effective February 19, 1998 (Case 96–E–0909), and related documents entitled ''Amended and Restated Settlement Agreement'' dated January 2, 1998, and ''Modifications to Amended and Restated Settlement Agreement'' dated February 26, 1998 (see Exhibits G–G2 in the application). Applicant is licensed by the Commission to own and possess a 9 percent interest in NMP2, located in the town of Scriba, Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the transfer of control of the license to the extent effected by Applicant becoming a subsidiary of the newly formed holding company in connection with a proposed plan of restructuring. Under the restructuring plan, the outstanding shares of Applicant's common stock are to be exchanged on a share-for-share basis for common stock of the holding company, such that the holding company will own all of the outstanding common stock of Applicant. In addition, the holding

company will own, directly or indirectly, the stock of any current non-utility subsidiaries of applicant except that Applicant will continue to own one unregulated subsidiary. Under this restructuring, Applicant will sell at auction its fossil-fueled electric generation facilities at its Danskammer Steam Generating Plant and its partial interest in the Roseton Electric Generation Plant (hereafter, collectively referred to as ''Generation Assets''). However, Applicant will continue to be an ''electric utility'' as defined in 10 CFR 50.2 engaged in the transmission, distribution, and generation of electricity at NMP2, combustion turbine facilities, hydroelectric facilities, and (until structurally separated or divested), the Generation Assets. Applicant would retain its ownership interest in NMP2 and continue to be a licensee of NMP2. No direct transfer of the operating license or ownership interests in the station will result from the proposed restructuring. The transaction would not involve any change to either the management organization or technical personnel of Niagara Mohawk Power Corporation, which is responsible for operating and maintaining NMP2 and is not involved in the restructuring of Applicant. The proposed action is in accordance with Applicant's application dated April 8, 1998, as supplemented April 22, 1998.

The Need for the Proposed Action

The proposed action is required to enable Applicant to restructure as described above.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed corporate restructuring and concludes that it is an administrative action unrelated to plant operation; therefore, there will be no resulting physical or operational changes to NMP2. The corporate restructuring will not affect the qualifications or organizational affiliation of the personnel who operate and maintain the facility, as NMPC will continue to be responsible for the maintenance and operation of NMP2 and is not involved in the restructuring of NYSEG.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or offsite radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the restructuring would not affect nonradiological plant effluents and would have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there are no significant environmental impacts that would result from the proposed action, any alternatives with equal or greater environmental impact need not be evaluated.

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements Related to the Operation of Nine Mile Point Nuclear Station, Unit No. 2, (NUREG–1085) dated May 1985.

Agencies and Persons Contacted

In accordance with its stated policy, on June 19, 1998, the staff consulted with the New York State official, Mr. Jack Spath, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see Applicant's application dated April 8, as supplemented by letter dated April 22, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 19th day of June 1998.

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Acting Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16909 Filed 6–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–010]

Commonwealth Edison Co.; Dresden Nuclear Power Station, Unit 1; Notice of Public Meeting

The NRC will conduct a public meeting at Grundy County Administration Center, 1320 Union Street, Morris, Illinois, on July 23, 1998, to discuss plans developed by Commonwealth Edison Company (ComEd, the licensee) to decommission the Dresden Nuclear Power Station, Unit 1, near Morris, Illinois. The meeting is scheduled for 7:00–9:00 p.m. and will be chaired by Mr. Donald Kauffman, Chairman, Grundy County Board. The meeting will include a short presentation by the NRC staff on the decommissioning process and NRC programs for monitoring decommissioning activities, with attention being given to the licensee's updated Post-Shutdown Decommissioning Activities Report (PSDAR) dated June 1, 1998. There will be a presentation by ComEd on their planned decommissioning activities, and there will be an opportunity for members of the public to make comments and question the NRC staff and ComEd representatives. The meeting will be transcribed.

The licensee's update to the PSDAR provides a short discussion of the plant history, and a description and schedule of planned decommissioning activities. The PSDAR update also comments briefly on anticipated decommissioning costs and environmental impacts.

The PSDAR update is available for public inspection at the local public document room, located at the Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450, and the Commission's Public Document Room, 2120 L Street, NW., Washington, D.C. 20037. The NRC document accession number is 9806080055.

For more information, contact Mr. Ronald A. Burrows, Project Manager, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–

0001, telephone number (301) 415–2497.

Dated at Rockville, Maryland, this 17th day of June 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. 98–16910 Filed 6–24–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Utility/NRC Interface Licensing Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission and the American Nuclear Society (ANS) are co-sponsoring a workshop involving senior NRC staff and key licensing officials representing the nuclear industry. The purpose of the meeting is to provide a forum for constructive dialogue on a number of important licensing issues. The workshop will consist of three sessions; each session will consist of three separate working groups discussing one of the following topics: (1) Communications between NRR Projects and Industry, (2) Licensing Submittals and Expectations, (3) Licensing Restart Issues after Prolonged Outages, (4) Notice of Enforcement Discretion, (5) Project Management Workload and Prioritization of Licensing Actions, (6) Using PRA in Licensing Decisions, (7) Public Interaction, (8) Standard Technical Specifications, and (9) Commitment Management. The working groups will be co-facilitated by NRC and industry experts and will report back to the entire group following each session. The meeting is open to the public and all interested parties may attend. The fees for ANS members are $375 and the fees for nonmembers are $425. Please contact Dave Slaninka of ANS at (708) 579–8255 for additional information regarding registration and fees.

Dates: July 20, 1998, from 7:00 a.m. to 5:30 p.m.; July 21, 1998, from 8:00 a.m. to 3:00 p.m.

Location: Bethesda Marriott Hotel, 5151 Pooks Road, Bethesda, Maryland 20814, Telephone (301) 897–9400, Toll Free (800) 228–9290.

FOR FURTHER INFORMATION CONTACT:

Marsha Gamberoni, Mail Stop O–13–H3, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852–2738; Telephone: (301) 415–3024; Internet: MKG@NRC.GOV

or

Jeff Jeffries, Paradigm Consulting, 104 Torrey Pines Dr., Cary, NC 27513; Telephone: (800) 481–4508; Internet: jdejeffries@worldnet.att.net

Dated at Rockville, Maryland the 16th day of June 1998.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Acting Associate Director for Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 98–16911 Filed 6–24–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 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 (Public Law 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 June 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 June 1, 1998, 24 rescission proposals totaling $20 million had been transmitted to the Congress. Congress approved 21 of the Administration's rescission proposals in P.L. 105–174. A total of $17.3 million of the rescissions proposed by the President was rescinded by that measure. Attachment C shows the status of the FY 1998 rescission proposals.

Deferrals (Attachments B and D)

As of June 1, 1998, $3,187 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

Jacob J. Lew,

Acting Director.

Attachments

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 by P.L. 105–174, the FY 1998 Supplemental Appropriations and Rescissions Act	−17.3
Currently before the Congress	2.8

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 June 1, 1998 (OMB/Agency releases of $1,645.8 million, partially offset by cumulative positive adjustment of $0.3 million)	−1,645.5
Overturned by the Congress	.....
Currently before the Congress	3,187.5

BILLING CODE 3110–01–P

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of June 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	223	4-28-98	223	P.L. 105-174
Animal and Plant Health Inspection Service								
Salaries and expenses	R98-2		350	2-20-98	350	4-28-98	350	P.L. 105-174
Food Safety and Inspection Service								
Salaries and expenses	R98-3		502	2-20-98	502	4-28-98	502	P.L. 105-174
Grain Inspection, Packers and Stockyards Administration								
Salaries and expenses	R98-4		38	2-20-98	38	4-28-98	38	P.L. 105-174
Agricultural Marketing Service								
Marketing services	R98-5		25	2-20-98	25	4-28-98	25	P.L. 105-174
Farm Service Agency								
Salaries and expenses	R98-6		1,080	2-20-98	1,080	4-28-98	1,080	P.L. 105-174
Natural Resources Conservation Service								
Conservation operations	R98-7		378	2-20-98	378	4-28-98	378	P.L. 105-174
Rural Housing Service								
Salaries and expenses	R98-8		846	2-20-98	846	4-28-98	846	P.L. 105-174
Food and Nutrition Service								
Child nutrition programs	R98-9		114	2-20-98	1/			
Forest Service								
National forest systems	R98-10		1,094	2-20-98	1,094	4-28-98	1,094	P.L. 105-174
Reconstruction and construction	R98-11		30	2-20-98	30	4-28-98	30	P.L. 105-174
Forest and rangeland research	R98-12		148	2-20-98	148	4-28-98	148	P.L. 105-174
State and private forestry	R98-13		59	2-20-98	59	4-28-98	59	P.L. 105-174
Wildland fire management	R98-14		148	2-20-98	148	4-28-98	148	P.L. 105-174

ATTACHMENT C
Status of FY 1998 Rescission Proposals - As of June 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			1,188	P.L. 105-174
Oregon and California grant lands	R98-16		2,500	2-20-98			2,500	P.L. 105-174
Bureau of Reclamation								
Water and related resources	R98-17		532	2-20-98	1/			
Bureau of Mines								
Mines and minerals	R98-18		1,605	2-20-98			1,605	P.L. 105-174
United States Fish and Wildlife Service								
Construction	R98-19		1,188	2-20-98			1,188	P.L. 105-174
National Park Service								
Construction	R98-20		1,638	2-20-98			1,638	P.L. 105-174
Bureau of Indian Affairs								
Construction	R98-21		737	2-20-98			737	P.L. 105-174
DEPARTMENT OF TRANSPORTATION								
Office of the Secretary								
Payments to air carriers	R98-22		2,499	2-20-98			2,499	P.L. 105-174
Payments to air carriers (Airport and airway trust fund)	R98-23		1,000	2-20-98			1,000	P.L. 105-174
Maritime Administration								
Maritime guaranteed loan (Title XI) program account	R98-24		2,138	2-20-98	1/, 2/			
TOTAL, RESCISSIONS		**0**	**20,060**		**4,921**		**17,276**	

1/ Funds were never withheld from obligation.

2/ GAO's report to the Congress, dated May 11, 1998, indicated that agency officials stated that funds were being withheld from obligation, but not on an apportionment schedule. Subsequent discussions between OMB and agency officials confirm that there has been no withholding of funds. Rather, the lower demand in recent years for these loan guarantees has resulted in large available balances. For this reason, no withholding was required, either by OMB or by the agency.

ATTACHMENT D
Status of FY 1998 Deferrals - As of June 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 6-1-98
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D98-1	2,330,098		2-3-98	1,423,435			328	906,991
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	160,253				1,323,650
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**		**1,645,838**			**328**	**3,187,496**

[FR Doc. 98–16835 Filed 6–24–98; 8:45 am]
BILLING CODE 3110–01–C

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Computer Matching Program Between the Office of Personnel Management and the Social Security Administration

AGENCY: Office of Personnel Management (OPM)

ACTION: Notice of a computer matching program between OPM and the Social Security Administration (SSA) for comment.

SUMMARY: OPM is publishing notice of its computer matching program with SSA to meet the reporting and publication requirements of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988. The purpose of this match is to identify beneficiaries who have remarried and not reported the remarriages to OPM. Generally, remarriage terminates benefits for survivor annuitants 55 years of age or younger. A recent amendment creates an exception based on a marriage that lasted 30 years or more. In this match, OPM will provide SSA with surnames, dates of birth, and Social Security Numbers to identify survivor beneficiaries who have not reported remarriages to OPM and are improperly receiving benefits under the Civil Service Retirement and Federal Employees' Retirement Systems (CSRS and FERS). The match will be conducted with SSA's Numident file, a source of beneficiaries' current surnames.

DATES: This proposed action will become effective 40 days after the agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget (OMB), unless either the Congress or OMB objects thereto. Any public comment on this matching program must be submitted within the 30-day public notice period, which begins on the publication date of this notice.

ADDRESSES: Any interested party may submit written comments to Kathleen M. McGettigan, Assistant Director for Systems, Finance, and Administration, Retirement and Insurance Service, Office of Personnel Management, Room 4316, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Marc Flaster, (202) 606–2115.

SUPPLEMENTARY INFORMATION: OPM and SSA have concluded an agreement to conduct a computer matching program between the two agencies. The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of information from the Numident file to OPM. The legal authority for this matching program can be found in 5 U.S.C. sections 8341, 8347, 8442 and 8461.

Office of Personnel Management.

Janice R. Lachance

Director.

Report of Computer Matching Agreement Between the Office of Personnel Management (OPM) and the Social Security Administration (SSA)

A. Participating Agencies

OPM and SSA.

B. Purpose of the Matching Program

Chapters 83 and 84 of title 5, United States Code (U.S.C.) provide the basis for paying a survivor annuity to widows, widowers, former spouses, or children. The purpose of this match is to identify beneficiaries who have remarried and not reported the remarriage to OPM. A surviving widow, widower, or former spouse loses entitlement to a survivor annuity upon remarrying before becoming 55 years of age. OPM has been required to terminate the survivor annuity. A recent amendment creates an exception to the termination requirement, under certain conditions, for marriages that have lasted 30 or more years. This allows eligibility for a survivor annuity based on a 30-or-more-year marriage to continue, and terminate only upon the death of the survivor annuitant (or in the case of a former spouse, as specified by the terms of the court order).

In this match, OPM will provide SSA with surnames, dates of birth, and Social Security Numbers for a sample of beneficiaries to identify survivor beneficiaries who have not reported remarriages to OPM and are improperly receiving benefits under the Civil Service Retirement and Federal Employees Retirement Systems (CSRS and FERS). The match will be conducted with SSA's Numident file, a source of beneficiaries' current surnames.

C. Authority for Conducting the Matching Program

5 U.S.C., Sections 8341, 8347, 8442, 8461 and 552a (Privacy Act).

D. Categories of Records and Individuals Covered by the Match

The SSA file used in the match is contained in SSA System of Records 09–60–0058, Master Files of Social Security Number holders, last published at 60 FR 2144, January 6, 1995. OPM's records consist of annuity data from its system of records entitled OPM.Central-1-Civil Service Retirement and Insurance Records, last published in the **Federal Register** at 60 FR 63075, December 8, 1995.

E. Description of Matching Program

OPM will disclose to SSA the Social Security Numbers, dates of birth, sex codes, and names of beneficiaries under CSRS and FERS whose benefits could be affected by remarriage. SSA will identify and provide OPM with an extract of the Numident record for each record that SSA matches. OPM will only use those data elements pertinent to the purpose of the match.

F. Inclusive Dates of the Matching Program

This computer matching program is subject to review by the Congress and the Office of Management and Budget (OMB). OPM's report to these parties must be at least 40 days prior to the initiation of any matching activity. If no objections are raised by either Congress or OMB, and the mandatory 30-day public notice period for comment for this **Federal Register** notice expires, with no significant receipt of adverse public comments resulting in a contrary determination, then this computer matching program becomes effective. By agreement between OPM and SSA, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

[FR Doc. 98–16933 Filed 6–24–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40102; File No. SR–NASD–98–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classifications

June 19, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 29, 1998, the National Association of Securities Dealers (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule

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

change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is submitting this filing to effectuate The Nasdaq Stock Market, Inc.'s (''Nasdaq'') periodic reclassification of Nasdaq National Market (''NNM'') securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through Nasdaq's Small Order Execution System (''SOES''). Specifically, under the proposal, 520 NNM securities will be reclassified into a different SOES tier size effective July 1, 1998. Since the NASD's proposal is an interpretation of existing NASD rules, there are no language changes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements and copy of the Notice-to-Members may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through SOES. Nasdaq periodically reviews the SOES tier size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted using data as of March 31, 998, pursuant to the following established criteria.[2]

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares and a maximum SOES order size of 1,000 shares;

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to $150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to $250, and two or more market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 520 NNM securities will be reclassified effective July 1, 1998. These 520 NNM securities are set out in the NASD's Notice to Members 98–44 (June 1998).

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with three exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted. In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and help ensure the ongoing participation of market makers in SOES for issues in which the tier size level increased. Second, for securities priced below $1 where the reranking called for a reduction in tier size, the tier size was not reduced. Third, for the top 50 Nasdaq securities based on market capitalization, the SOES tier sizes were not reduced regardless of whether the reranking called for a tier-size reduction.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act.[3] Section 15A(b)(6) requires, among other things, that the rules of the NASD governing the operation of Nasdaq be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Specifically, the NASD believes that the reassignment of NNM securities within SOES tier size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and by providing investors with the assurance that they can effect trades up to a certain size at the best prices quoted on Nasdaq.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Association has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[4] and subparagraph (e)(1) of Rule 19b–4 thereunder.[5]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[2] The classification criteria is set forth in NASD Rule 4613(a)(2) and the footnote to NASD rule 4710(g).

[3] 15 U.S.C. 78*o*–3.

[4] 15 U.S.C. 78s(b)(3)(A)(i).

[5] 17 CFR 240.19b–4(e)(1).

[6] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, located at the above address. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–39 and should be submitted by July 16, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–16951 Filed 6–24–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40097; File No. SR–PCX–98–04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Identification of Broker-Dealer Orders on the Options Floor

June 17, 1998.

I. Introduction

On January 23, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule changes to amend PCX Rule 6.66(c), Rule 6.2, and Rule 6.77 to require the broker-dealer status of an order to be identified by public outcry to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's dissemiated bid or offering price, and to add certain violations of Rule 6.66(c) as amended to the list of those violations that may cause a transaction to be nullified or adjusted. Notice of the proposal was published for comment and appeared in the **Federal Register** on February 24, 1998.[3] Not comment letters were received on the proposal. On June 1, 1998, the PCX filed an amendment to the proposed rule change (''Amendment No. 1'').[4] This order approves the Exchange's proposal. In addition, the Commission hereby publishes notice to solicit comments from interested persons on Amendment No. 1 on the proposal and approves that amendment to an accelerated basis.

II. Description of the Proposal

PCX is proposing to amend its rules on the identification of broker-dealer orders by requiring that, if an order is for an account in which a broker-dealer has an interest, the broker-dealer status of the order must be disclosed to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price.

On July 21, 1994, the Commission approved an Exchange proposal to adopt new Rule 6.66(c), which currently states: ''Prior to executing an order in which a broker-dealer has an interest, a member must indicate by public outcry that such order is for a broker-dealer if the order is to be executed at the trading crowd's disseminated bid or offering price. This rule applies regardless of whether such broker-dealer is an Exchange member.''[5] The Exchange is now proposing to expand the scope of Rule 6.66(c) by striking the words ''if the order is to be executed at the trading crowd's disseminated bid or offering price'' from the text of Rule 6.66(c). Accordingly, under the amended rule, prior to executing an order in which a broker-dealer has an interest, a Floor Broker would be required to indicate by public outcry that the order is for a broker-dealer.

The proposal is intended to facilitate transactions in option contracts by making the member in the trading crowd and the Order Book Official staff aware of the nature of orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. In that regard, the Exchange notes that only non-broker-dealer orders are entitled to be placed in the public limit order book and to be given priority over broker-dealer orders under certain circumstances.[6] The Exchange further notes that only non-broker-dealers are entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price.[7]

The Exchange believes their proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. In that regard, the Exchange notes that there is no such distinction applicable to Market Maker orders, the identification of which is governed by Rule 6.66(b), which requires Floor Brokers to verbally identify Market Maker orders as such prior to their execution.[8] Thus, removing the subject distinction from Rule 6.66(c) will make the Exchange's option rule disclosure rules uniform, consistent, and easier to follow.

The Exchange is also proposing to amend Rules 6.2 and 6.77 by adding certain violations of Rule 6.66(c) as amended to the list of those violations that may give rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms.[9] Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The reason for the limitation on the number of contracts is that, under Rule 6.86, only non-broker-dealer orders are eligible for a guaranteed execution of 20 contracts at the displayed price. If a Floor Broker does not disclosure that an order for 20 contracts or less is for a broker-dealer (under the proposed rule), the members in the trading crowd may incorrectly assume that the order is for a public customer and provide an execution at the displayed price, without having an opportunity to update their quotes.[10] The Exchange believes that adding this provision is simply a logical extension of the existing Commentary .05(v) to Rule 6.2, which permits two Floor Officials to nullify, or adjust the terms of, any order

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 39649 (February 11, 1998), 63 FR 9276.

[4] Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to Ann L. Vlcek, Division of Market Regulation, Commission, dated June 1, 1998.

[5] *See* Exchange Act Release No. 34426 (July 21, 1994), 59 FR 38497 (July 28, 1994) (order approving SR–PSE–92–14).

[6] *See* PCX Rules 6.52(a) and 6.75.

[7] *See* PCX Rule 6.86(a).

[8] Rule 6.66(b) states: ''A Floor Broker holding an order for the account of a Market Maker shall verbally identify the order as such prior to consummating a transaction, and shall, after effecting the trade, supply the name of the Market Maker concerned, by public outcry, upon the request of any member or members in the trading crowd.''

[9] Specifically, the Exchange proposes to move Commentary .05 from Rule 6.2 to Rule 6.77 and renumber it as Commentary .01. The existing subparagraphs will then be relettered and a new subparagraph, (f), added to address violations of Rule 6.66(c) as amended.

[10] *See* PCX Rule 6.37(d) and Rule 6.37, Commentary .05 (Market Makers are required to make a market for, at a minimum, one contract for broker-dealer orders; they must also lower their bids or raise their offers if they do not satisfy an order in its entirety).

executed in violation for Rule 6.86, which states that only non-broker-dealer orders are eligible for a guarantee of up to 20 option contracts at the disseminated market price.

III. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)(5)[11] in that they are designed to facilitate transactions in securities, promote just and equitable principles of trade, and protect investors and the public interest.[12]

Specifically, the Commission believes that the proposal will facilitate transactions in option contracts and afford greater protection of investors and the public interest by making the members in the trading crowd and the Order Book Official staff aware of the nature of the orders being represented on the Floor, thereby assuring that broker-dealer orders will not be represented inadvertently as public customer orders. The Commission notes that only non-broker-dealer orders are entitled to be placed in the Exchange's public limit order book and to be given priority over broker-dealer orders under certain circumstances, and that only non-broker-dealers are entitled to receive a guaranteed minimum of 20 contracts at the disseminated bid or offering price. In view of these existing constraints upon broker-dealer orders and of the added protection afforded public customers by the proposal, the Commission does not believe that requiring all broker-dealer orders to be identified as such public outcry will cause any unnecessary burden upon a member.

The Commission agrees with the Exchange that the proposal will make the existing rule less complicated and easier to follow by removing the distinction between broker-dealer orders to be executed at the bid or offering price, and those that are not. The Commission notes that there is no such distinction applicable to Market Maker orders, which must be verbally identified as such prior to their execution. Thus, the Commission believes that removing the subject distinction from Rule 6.66(c) will facilitate transactions in option contracts by making the Exchange's option order disclosure rules uniform, consistent, and easier to follow.

The Commission also believes that it is appropriate for the Exchange to amend Rule 6.2 by deleting Commentary .05 from that rule, which relates to the member's overall conduct and manner of dress on the options trading floor, and adding it as Commentary .01 to Rule 6.77, which relates to the issue of when bids and offers constitute binding contracts. In view of the proposed amendment of Rule 6.66(c), the Commission believes it appropriate for the Exchange to add a new subparagraph (f) to this Commentary, which would add certain violations of Rule 6.66(c) as amended to the list of those violations that may rise to a circumstance in which two Floor Officials may nullify a transaction or adjust its terms. Specifically, such action could be taken if a Floor Broker failed to identify a broker-dealer order for 20 contracts or less. The Commission agrees with the Exchange that adding this provision is simply a logical extension of the existing Commentary .05(v) of Rule 6.2, which permits two Floor Officials to nullify, or adjust the terms of, any order executed in violation of Rule 6.86, which states that only non-broker-dealer orders are eligible for a guarantee of up to 20 option contracts at the disseminated market price. The Commission believes that enabling Floor Officials to nullify or adjust the terms of a transaction that would violate Rule 6.66(c) as amended will afford greater protection of investors and the public interest.

For the foregoing reasons, the Commission finds that PCX's proposal to require the broker-dealer status of an order to be identified by public outcry to the trading crowd prior to execution, regardless of whether the order is to be executed at the trading crowd's disseminated bid or offering price, and to add certain violations of rule 6.66(c) as amended to the list of those violations that may cause a transaction to be nullified or adjusted, is consistent with the requirements of the Act and with the rules and regulations thereunder.

In addition, the Commission finds good cause consistent with the Act for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 simply corrects certain typographical errors in the text of the rule proposal and repharases the new subparagraph (f) being added to Commentary .01 of Rule 6.77. The amendment does not substantively change the proposal as originally filed. Accordingly, the Commission approves Amendment No. 1 on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments, including whether the submission is consistent with the Act, concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–04 and should be submitted by July 14, 1998.

V. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PCX 98–04), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–16952 Filed 6–24–98; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78f(b)(5).

[12] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst,

Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Application Form for SDB Program''.

Type of Request: Revision of a currently approved collection.

Form No: 2065.

Description of Respondents: Small Businesses applying for SDB Certification.

Annual Responses: 30,000.

Annual Burden: 90,000.

Comments: Send all comments regarding this information collection to Brenda Washington, General Business & Industry Specialist, Office of Minority Enterprise Development, Small Business Administration, 409 3rd Street S.W., Suite 8000, Washington, D.C. 20416, Phone No: 202–205–7663.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Title: ''Application for Business Loans''.

Type of Request: Revision of a currently approved collection.

Form No.'s: 4,4SCH A, 4–I, 4–L, 4–SHORT, EIB–SBA–84–1.

Description of Respondents: Applicants for an SBA Business Loan.

Annual Responses: 60,000.

Annual Burden: 1,187,400.

Comments: Send all comments regarding this information collection to Keith Lucas, Program Support Specialist, Office of Financial Assistance, Small Business Administration, 409 3rd Street S.W., Suite 8300, Washington, D.C. 20416 . Phone No: 202–205–6486. Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–16838 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before July 27, 1998. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3RD Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Title: Financial statement of debtor.

Form No: 770.

Frequency: On Occasion.

Description of Respondents: Recipients of SBA Loans.

Annual Responses: 161,000.

Annual Burden: 281,750.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–16970 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Berthel SBIC, LLC (License No. 07/07/0100); Notice of Issuance of a Small Business Investment Company License

On May 15, 1997, an application was filed by Berthel SBIC, LLC, at 100 2nd Street, SE, Cedar Rapids, Iowa, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 07/07–0100 on May 4, 1998, to Berthel SBIC, LLC to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–16976 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Bluestem Capital Partners II, L.P. (License No. 08/78–0153); Notice of Request for Exemption

On May 22, 1998, Bluestem Capital Partners II, L.P. (the ''Licensee''), a Delaware limited partnership and SBIC Licensee number 08/78–0153 filed a request to the SBA pursuant to Section 107.730(a) of the Regulations governing small business investment companies (13 CFR 107.730(a)(1998)) for an exemption allowing the Licensee to invest in Hat World, Inc.(''Hat World''), of Sioux Falls, South Dakota. Hat World received prior financial assistance from an Associate (as defined by Section 107.50 of the SBA Regulations) of the Licensee, and has itself become an Associate of the Licensee.

Hat World is currently in need of additional capital, however, the Licensee can only offer this assistance to Hat World upon receipt of a prior written exemption from SBA. The exemption requested is the basis for this notice, and is required pursuant to § 107.730(g) of the Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on this exemption request to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Sioux Falls, South Dakota.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: June 8, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–16972 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Midwest Mezzanine Fund II, L.P. (License No. 05/05–0234); Notice of Issuance of a Small Business Investment Company License

On November 14, 1997, an application was filed by Midwest Mezzanine Fund, II, L.P., at 208 South LaSalle Street, 10th Floor, Chicago, Illinois 60604–1003, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0234 on May 4, 1998, to Midwest Mezzanine Fund II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–16975 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Sundance Venture Partners, L.P. II (License No. 09/79–0416); Notice of Issuance of a Small Business Investment Company License

On November 20, 1997, an application was filed by Sundance Venture Partners, L.P. II at 400 E. Van Buren, Suite 750, Phoenix, Arizona 85004, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/79–0416 on May 4, 1998, to Sundance Venture Partners, L.P. II, to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–16974 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3091]

State of Mississippi (and Contiguous Counties in Alabama)

Lowndes and Perry Counties and the contiguous Counties of Clay, Forrest, George, Greene, Jones, Monroe, Noxubee, Oktibbeha, Stone, and Wayne in Mississippi, and Lamar and Pickens Counties in Alabama constitute a disaster area as a result of damages caused by severe storms and tornadoes that occurred on June 5 and 6, 1998. Applications for loans for physical damages may be filed until the close of business on August 17, 1998 and for economic injury until the close of business on March 16, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	7.000
Homeowners without Credit Available Elsewhere	3.500
Businesses with Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damages are 309112 for Mississippi and 309212 for Alabama. For economic injury the numbers are 988900 for Mississippi and 989000 for Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 16, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–16973 Filed 6–24–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on July 14, 1998, at 10:00 a.m.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Noreen Hannigan, Regulations Analyst, Office of Rulemaking (ARM–106), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–7476; FAX: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on July 14, 1998, at 10:00 a.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

The agenda for this meeting will include:

(1) A status report on the Part 103 (Ultralight Vehicles) Working Group's Notice of Proposed Rulemaking (NPRM) on ''Sport Pilot Certification Requirements'' (and possible request for ARAC approval of draft for submission to the FAA for legal and economic review (copies may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**));

(2) Discussion of overflights of national parks;

(3) Other general aviation topics (open discussion).

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by

contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 22, 1998.

Katherine Hakala,

Acting Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–16955 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 98–03–C–00–DSM To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Des Moines International Airport, Des Moines, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Des Moines International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 27, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William F. Flannery, Aviation Director, Des Moines International Airport, at the following address: Des Moines International Airport, 5800 Fleur Drive, Suite 201, Des Moines, Iowa 50321–2854.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Des Moines, Des Moines International Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Des Moines International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On June 8, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the dity of Des Moines, Iowa, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 24, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December, 2001.

Proposed charge expiration date: June, 2005.

Total estimated PFC revenue: $8,458,474.

Brief description of proposed project(s): Terminal lobby restroom renovation; terminal passenger skywalk; terminal passenger skywalk lobby; terminal passenger holdroom expansion; and terminal ticket counter reconfiguration and replacement.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Des Moines International Airport.

Issued in Kansas City, Missouri on June 9, 1998.

James W. Brunskill,

Acting Manager, Airports Division, Central Region.

[FR Doc. 98–16961 Filed 6–24–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (98–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 1998 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 1998 RCAF (Unadjusted) is 0.998. The third quarter 1998 RCAF (Adjusted) is 0.629. The third quarter 1998 RCAF–5 is 0.626.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1549. TDD for the hearing impaired: (202) 565–1695.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423–0001, telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 18, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–16928 Filed 6–24–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33616]

Union Pacific Railroad Company—Trackage Rights Exemption—Central California Traction Company

Central California Traction Company (CCT) has agreed to grant local trackage rights to Union Pacific Railroad Company (UP) over 2.9 miles of CCT's rail line between milepost 41.9 near Eldercreek Road and milepost 44.8, near Polk Junction, in the Sacramento Industrial Park and Fruitridge, in and near the City of Sacramento, Sacramento County, California. CCT is jointly owned by UP and The Burlington Northern and Santa Fe Railway Company (BNSF), and, after the trackage rights are effective, UP will handle rail cars as the operating agent for BNSF.

The transaction was scheduled to be consummated on or after June 12, 1998.

The purpose of the local trackage rights is to permit UP to serve customers on the line, which UP expects to result

in an efficient and economical route for the shippers in the City of Sacramento.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33616, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 17, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–16804 Filed 6–24–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Depositor's Application To Withdraw Postal Savings

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Depositor's Application to Withdraw Postal Savings.''

DATES: Written comments should be received on or before August 24, 1998.

ADDRESSES: Direct all written comments to Financial Management Service, 3361–L 75th Avenue, Landover, Maryland 20785.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary Morris, Credit Accounting Branch, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874–7801.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the financial Management Service solicits comments on the collection of information described below.

Title: Depositor's Application to withdraw Postal Savings.

OMB Number: 1510–0034.

Form Number: POD 315.

Abstract: This form is used as an application for payment of Postal Savings account to depositor or other legal representatives. The information on this form is used to identify the depositor or legal recipient thereby insuring payment is made to the appropriate agency.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,075.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 538.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: June 19, 1998.

Diane E. Clark,

Assistant Commissioner, Management.

[FR Doc. 98–16863 Filed 6–24–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8396

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8396, Mortgage Interest Credit.

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Mortgage Interest Credit.

OMB Number: 1545–0930.

Form Number: 8396.

Abstract: Form 8396 is used by individual taxpayers to claim a credit against their tax for a portion of the interest paid on a home mortgage in connection with a qualified mortgage credit certificate. Internal Revenue Code section 25 allows the credit and Code section 163(g) provides that the mortgage interest deduction will be reduced by the credit. The IRS uses the information on the form to verify the mortgage interest credit taken and to verify that the mortgage interest deducted on Schedule A (Form 1040) has been reduced by the allowable credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 1 hr., 49 min.

Estimated Total Annual Burden Hours: 54,300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–16841 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–B, Proceeds From Broker and Barter Exchange Transactions.

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Proceeds From Broker and Barter Exchange Transactions.

OMB Number: 1545–0715.

Form Number: 1099–B.

Abstract: Internal Revenue Code section 6045 requires the filing of an information return by brokers to report the gross proceeds from transactions and by barter exchanges to report exchanges of property or services. Form 1099–B is used to report proceeds from these transactions to the Internal Revenue Service.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit and individuals.

Estimated Number of Responses: 117,611,875.

Estimated Time Per Response: 15 min.

Estimated Total Annual Burden Hours: 29,402,969.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–16842 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–96–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–96–88 (TD 8435), Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations (§ 301.9100–8).

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room

5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations.

OMB Number: 1545–1112.

Regulation Project Number: IA–96–88.

Abstract: Regulation section 301.9100–8, formerly section 5h.6, provides final income, estate and gift, and employment tax regulations relating to elections made under the Technical and Miscellaneous Revenue Act of 1988. This regulation enables taxpayers to take advantage of various benefits provided by the Internal Revenue Code.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 24,305.

Estimated Time Per Respondent: 17 minutes.

Estimated Total Annual Burden Hours: 6,712.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–16844 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–399–88]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–399–88 (TD 8434), Treatment of Dual Consolidated Losses (§ 1.1503–2).

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Dual Consolidated Losses.

OMB Number: 1545–1083.

Regulation Project Number: INTL–399–88.

Abstract: Internal Revenue Code section 1503(d) denies use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of another country. This regulation allows an affiliate to make use of the loss if the loss has not been used in the foreign country and if an agreement is attached to the income tax return of the dual resident corporation or group, to take the loss into income upon future use of the loss in the foreign country. The regulation also requires separate accounting for a dual consolidated loss where the dual resident corporation files a consolidated return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 2 hr., 23 min.

Estimated Total Annual Burden Hours: 1,195.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–16846 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–941–86; INTL–656–87; INTL–704–87]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, INTL–941–86; INTL–656–87; INTL–704–87, Treatment of Shareholders of Certain Passive Foreign Investment Companies (§§ 1.1291–1, 1.1291–2, 1.1291–3, 1.1291–6, and 1.1291–8).

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

OMB Number: 1545–1304.

Regulation Project Number: INTL–941–86; INTL–656–87; INTL–704–87.

Abstract: This regulation concerns the taxation of shareholders of certain passive foreign investment companies (PFICs) upon payment of distributions by such companies or upon disposition of the stock of such companies. The reporting requirements affect U.S. persons that are direct and indirect shareholders of PFICs. The information is required by the IRS to identify PFICs and their shareholders, administer shareholder elections, verify amounts reported, and track transfers of stock of certain PFICs.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–16847 Filed 6–24–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation.

SUBJECT: Board of Directors.

TIME AND DATE: 9:30 a.m., Saturday, June 20, 1998.

PLACE: Telephonic meeting.

STATUS: This meeting was canceled.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle at 301/564–3399.

Dated: June 22, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–17046 Filed 6–23–98; 9:43 am]

BILLING CODE 8720–01–M

federal register

Thursday
June 25, 1998

Part II

Environmental Protection Agency

40 CFR Part 442

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Transportation Equipment Cleaning Point Source Category; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 442

[FRL–6100–6]

RIN 2040–AC23

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Transportation Equipment Cleaning Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation establishes technology-based effluent limitations guidelines for the discharge of pollutants into waters of the United States and into publicly owned treatment works (POTWs) by existing and new facilities that perform transportation equipment cleaning operations. Transportation equipment cleaning (TEC) facilities are defined as those facilities that generate wastewater from cleaning the interior of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, inland tank barges, closed-top hopper barges, ocean/sea tankers, and other similar tanks (excluding drums and intermediate bulk containers) used to transport materials or cargos that come into direct contact with the tank or container interior. Facilities which do not engage in cleaning the interior of tanks are not considered within the scope of this proposal.

EPA is proposing to subcategorize the TEC Point Source Category into 11 subcategories based on types of cargos carried and transportation mode. EPA is proposing to establish effluent limitations for existing facilities and new sources discharging wastewater directly to surface waters in the following subcategories: Truck/Chemical, Rail/Chemical, Barge/Chemical & Petroleum, Truck/Food, Rail/Food and Barge/Food Subcategories.

EPA is proposing to establish pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in the following subcategories: Truck/Chemical and Rail/Chemical Subcategories. Additionally, EPA is proposing to establish effluent limitations for new sources discharging wastewater to POTWs in the Barge/Chemical & Petroleum Subcategory.

EPA is proposing not to establish effluent limitations or pretreatment standards for existing or new facilities in the Truck/Petroleum, Rail/Petroleum, Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories. Also, EPA is proposing not to establish pretreatment standards for existing or new sources in the Truck/Food, Rail/Food, and Barge/Food Subcategories because the pollutants generated by these subcategories are amenable to treatment in a Publicly Owned Treatment Works (POTW).

This proposal would not apply to wastewater discharges from cleaning operations located at industrial facilities regulated under other Clean Water Act effluent guidelines, provided that the facility cleans only tanks containing cargos or commodities generated or used on-site, or by a facility under the same corporate structure.

The wastewater flows covered by the rule include all contact washwaters which have come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. Additionally, the rule covers wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated wastewater at those facilities subject to the TEC guidelines and standards. Compliance with this proposal is estimated to reduce the discharge of priority pollutants by at least 100,000 pounds per year and result in recreational benefits of $1.8 million to $6.3 million in 1997 dollars. Additional non use benefits are projected to range from $ 885,000 to $3.2 million. Compliance with this proposal is expected to result in a total pretax compliance cost of $37.5 million annually.

DATES: Comments on the proposal must be received by September 23, 1998.

In addition, EPA will conduct a public hearing on Tuesday, August 18, 1998, from 9:00 a.m. to 11:00 a.m.

ADDRESSES: Send written comments and supporting data on this proposal to: John Tinger, US EPA, (4303), 401 M St. SW, Washington, D.C. 20460.

The public hearing covering the rulemaking will be held at the EPA headquarters auditorium, Waterside Mall, 401 M St. SW, Washington, DC. Persons wishing to present formal comments at the public hearing should have a written copy for submittal.

The public record is available for review in the EPA Water Docket, 401 M St. SW, Washington, D.C. 20460. The public record for this rulemaking has been established under docket number W–97–25, and includes supporting documentation, but does not include any information claimed as Confidential Business Information (CBI). The record is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: For additional technical information contact Mr. John Tinger at (202) 260–4992. For additional economic information contact Mr. George Denning at (202) 260–7374.

SUPPLEMENTARY INFORMATION: *Regulated Entities:* Entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Facilities that clean the interiors of tank trucks, rail tank cars, or barges that have been used to transport cargos and that are not already covered by Clean Water Act effluent guidelines.

The preceding table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in Section III of the proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Supporting Documentation

The regulations proposed today are supported by several major documents:

1. ''Development Document for Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category'' (EPA–821–B–98–011). Hereafter referred to as the Technical Development Document, the document

presents EPA's technical conclusions concerning the proposal. EPA describes, among other things, the data collection activities in support of the proposal, the wastewater treatment technology options, wastewater characterization, and the estimation of costs to the industry.

2. ''Economic Analysis of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category'' (EPA–821–B–98–012).

3. ''Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category'' (EPA–821–B–98–013).

4. ''Statistical Support Document of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category'' (EPA–821–B–98–014).

5. ''Environmental Assessment of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category'' (EPA–821–B–98–015).

How to Obtain Supporting Documents: All documents are available from the Office of Water Resource Center, RC–4100, U.S. EPA, 401 M Street SW, Washington, D.C. 20460; telephone (202) 260–7786 for the voice mail publication request. The Technical Development Document can also be obtained through EPA's Home Page on the Internet, located at WWW.EPA.GOV/OST/RULES. The preamble and rule can also be obtained at this site.

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Appendix A: Definitions, Acronyms, and Abbreviations Used in This Notice

I. Legal Authority

These regulations are proposed under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, and 1361.

II. Background

A. Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (Section 101(a), 33 U.S.C. 1251(a)). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Congress recognized that regulating only those sources that discharge effluent directly into the nation's waters would not be sufficient to achieve the CWA's goals. Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards which restrict pollutant discharges for those who discharge wastewater indirectly through sewers flowing to publicly-owned treatment works (POTWs) (Section 307(b) and (c), 33 U.S.C. 1317(b) and (c)). National pretreatment standards are established for those pollutants in wastewater from indirect dischargers which may pass through or interfere with POTW operations. Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to implement local treatment limits applicable to their industrial indirect dischargers to satisfy any local requirements (40 CFR 403.5).

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (''NPDES'') permits; indirect dischargers must comply with pretreatment standards. These limitations and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

1. Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA

In the guidelines for an industry category, EPA defines BPT effluent limits for conventional, priority,[1] and non-conventional pollutants. In specifying BPT, EPA looks at a number of factors. EPA first considers the cost of achieving effluent reductions in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes employed and any required process changes, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the Agency deems appropriate (CWA 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, EPA may require higher levels of control than currently in place in an industrial category if the Agency determines that the technology can be practically applied.

2. Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT technology for discharges from existing industrial point sources. BCT is not an additional limitation, but replaces Best Available Technology (BAT) for control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after consideration of a two part ''cost-reasonableness'' test. EPA explained its methodology for the development of BCT limitations in July 1986 (51 FR 24974).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

3. Best Available Technology Economically Achievable (BAT)—Section 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best existing economically achievable performance of direct discharging plants in the industrial subcategory or category. The factors considered in assessing BAT include the cost and economic impact of achieving BAT effluent reductions, the age of equipment and facilities involved, the processes employed, engineering aspects of the control technology, potential process changes, non-water quality impacts (including energy requirements), and such factors as the Administrator deems appropriate. The Agency retains considerable discretion in assigning the weight to be accorded to these factors. An additional statutory factor considered in setting BAT is economic achievability. Generally, the achievability is determined on the basis of the total cost to the industrial subcategory and the overall effect of the rule on the industry's financial health. BAT limitations may be based upon effluent reductions attainable through changes in a facility's processes and operations. As with BPT, where existing performance is uniformly inadequate, BAT may be based upon technology transferred from a different subcategory within an industry or from another industrial category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

[1] In the initial stages of EPA CWA regulation, EPA efforts emphasized the achievement of BPT limitations for control of the ''classical'' pollutants (e.g., TSS pH, BOD_5). However, nothing on the face of the statue explicitly restricted BPT limitation to such pollutants. Following passage of the Clean Water Act of 1997 withits requirement for point sources to achieve best available technology limitations to control discharges of toxic pollutants, EPA shifted its focus to address the listed priority toxic pollutants under the guidelines program. BPT guidelines continue to include limitations to address all pollutants.

4. New Source Performance Standards (NSPS)—Section 306 of the CWA

NSPS reflect effluent reductions that are achievable based on the best available demonstrated control technology (BDAT). New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology for all pollutants (i.e., conventional, nonconventional, and priority pollutants). In determining the BADT, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

5. Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly-owned treatment works (POTWs). The CWA authorizes EPA to establish pretreatment standards for pollutants that pass through POTWs or interfere with treatment processes at POTWs. Pretreatment standards are technology-based and analogous to BAT effluent limitations guidelines.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR Part 403. Those regulations contain a definition of pass-through that addresses localized rather than national instances of pass-through and establish pretreatment standards that apply to all non-domestic dischargers. See 52 FR 1586, January 14, 1987.

6. Pretreatment Standards for New Sources (PSNS)—Section 307(b) of the CWA

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

B. Section 304(m) Requirements

Section 304(m) of the CWA, added by the Water Quality Act of 1987, requires EPA to establish schedules for (1) reviewing and revising existing effluent limitations guidelines and standards (''effluent guidelines'') and (2) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (55 FR 80) that established schedules for developing new and revised effluent guidelines for several industry categories. One of the industries for which the Agency established a schedule was the Transportation Equipment Cleaning Industry.

In 1992, EPA entered into a Consent Decree requiring proposal and final agency action of effluent limitations guidelines and standards final rule for the Transportation Equipment Cleaning Industry (*NRDC* v. *Browner* D.D.C. 89–2980). In December of 1997, the Court modified the decree revising the deadlines for proposal to May 15, 1998 and a deadline of June 15, 2000 for final action.

C. Pollution Prevention Act

The Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101 *et seq.*, Pub. L. 101–508, November 5, 1990) ''declares it to be the national policy of the United States that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort * * *'' (Sec. 6602; 42 U.S.C. 13101 (b)). In short, preventing pollution before it is created is preferable to trying to manage, treat or dispose of it after it is created. The PPA directs the Agency to, among other things, ''review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction'' (Sec. 6604; 42 U.S.C. 13103(b)(2)). This effluent guideline was reviewed for its incorporation of pollution prevention.

According to the PPA, source reduction reduces the generation and release of hazardous substances, pollutants, wastes, contaminants, or residuals at the source, usually within a process. The term source reduction ''include[s] equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or inventory control. The term ''source reduction'' does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to or necessary for the production of a product or the providing of a service.'' 42 U.S.C. 13102(5). In effect, source reduction means reducing the amount of a pollutant that enters a waste stream or that is otherwise released into the environment prior to out-of-process recycling, treatment, or disposal.

EPA has evaluated pollution prevention related activities involving the management of heels (residual material) in the Transportation Equipment Cleaning (TEC) Industry. During the data collection phase of the development of the proposed rule, a number of potential pollution prevention practices and technology applications were identified. Discussion of the pollution prevention technologies and practices and their uses with respect to this proposed rule are contained in Section VI of this preamble and in the Technical Development Document.

III. Scope of the Proposed Regulation

EPA is today proposing effluent limitations guidelines and pretreatment standards for wastewater discharges from facilities engaged in cleaning the interiors of tanks including, but not limited to: tank trucks; rail tank cars; intermodal tank containers; inland tank barges; and ocean/sea tankers used to transport commodities that come into direct contact with the tank or container interior. Facilities which do not engage in cleaning the interior of tanks are not considered within the scope of this proposal.

EPA is proposing to subcategorize the TEC point source category into 11 subcategories based on types of cargos carried and transportation mode. The subcategories proposed for the TEC point source category are set forth below. Further details and definitions of EPA's subcategorization approach are in Section VI of this notice.

- Subcategory A: Truck/Chemical;
- Subcategory B: Rail/Chemical;
- Subcategory C: Barge/Chemical & Petroleum;
- Subcategory D: Truck/Petroleum;
- Subcategory E: Rail/Petroleum;
- Subcategory F: Truck/Food;
- Subcategory G: Rail/Food;
- Subcategory H: Barge/Food;
- Subcategory I: Truck/Hopper;
- Subcategory J: Rail/Hopper; and
- Subcategory K: Barge/Hopper.

EPA is proposing to establish effluent limitations for existing facilities and new sources discharging wastewater

directly to surface waters in the following subcategories: Truck/Chemical, Rail/Chemical, Barge/Chemical & Petroleum, Truck/Food, Rail/Food and Barge/Food.

EPA is proposing to establish pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in the Truck/Chemical and Rail/Chemical Subcategories. Additionally, EPA is proposing to establish effluent limitations for new sources discharging wastewater to POTWs in the Barge/Chemical & Petroleum Subcategory. The following table presents the regulatory approach proposed in today's notice.

TABLE 1.—SUBCATEGORIES PROPOSED FOR REGULATION

Subcategory	BPT or BCT	BAT	NSPS	PSES	PSNS
A: Truck/Chemical	X	X	X	X	X
B: Rail/Chemical	X	X	X	X	X
C: Barge/Chemical & Petroleum	X	X	X	.....	X
D: Truck/Petroleum	.....	.....	.....	.....	.....
E: Rail/Petroleum	.....	.....	.....	.....	.....
F: Truck/Food	X	.....	X	.....	.....
G: Rail/Food	X	.....	X	.....	.....
H: Barge/Food	X	.....	X	.....	.....
I: Truck/Hopper	.....	.....	.....	.....	.....
J: Rail/Hopper	.....	.....	.....	.....	.....
K: Barge/Hopper	.....	.....	.....	.....	.....

The wastewater flows covered by the proposed rule include all washwaters which have come into direct contact with the tank or container interior including pre-rinse cleaning solutions, chemical cleaning solutions, and final rinse solutions. Additionally, the rule would cover wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated wastewater at those facilities subject to the TEC guidelines and standards.

EPA is proposing not to establish effluent limitations or pretreatment standards for existing or new facilities in the following subcategories: Truck/Petroleum and Rail/Petroleum. Initially, in its assessment of the industry, EPA analyzed the removals, benefits and costs of establishing guidelines for the Truck/Petroleum and Rail/Petroleum Subcategories. EPA has determined that very few pounds of toxic pollutants are being discharged by existing facilities in the Truck/Petroleum and Rail/Petroleum Subcategories. The pollutant loads and technology options analyzed for these subcategories are further discussed in Section VIII of today's notice. The low pollutant loadings associated with these subcategories are, in part, due to the small volumes of wastewater discharged by these facilities, which range from 900 to a maximum of 175,000 gallons per year. Based on this analysis, EPA preliminarily concluded that there is no need to develop nationally applicable regulations for these subcategories. Rather, direct dischargers will remain subject to effluent limitations established on a case by case basis using best professional judgement, and indirect dischargers may be subject to local pretreatment limits as necessary to prevent pass-through or interference.

EPA recognizes the limitations of currently available data and the impact of assumptions on the subsequent conclusions, especially due to the lack of available data on raw wastewater characteristics on the Truck/Petroleum and Rail/Petroleum Subcategories, as described in Section VII of this notice. EPA solicits data and comments which may support or refute the Agency's conclusion that wastewater generated in the petroleum subcategories does not contain significant toxic loadings. EPA is also concerned about the difficulty of determining whether particular cargos fall into the chemical or petroleum subcategories. As explained below, and in EPA's proposed subcategorization approach, EPA is soliciting comment on an alternative subcategorization approach that would combine the petroleum and chemical subcategories.

EPA realizes that much of the TEC industry is characterized by each facility accepting and cleaning a wide range of commodities and cargos which may vary on a daily, seasonal, or yearly basis. EPA raises the issue that it may be difficult to determine the limits appropriate to a particular facility due to the changing nature of the cargos being accepted by a facility. In this notice, EPA has provided definitions of each subcategory and each type of cargo. EPA believes it has established definitions that are most applicable to the industry, and has subsequently modeled wastewater treatment performance and developed effluent limitations applicable to each subcategory. However, EPA also acknowledges that there may be some difficulties associated with implementing this rule as proposed. Specifically, EPA is concerned that there may be difficulties associated with the determination of whether a facility is cleaning transportation equipment that contained ''petroleum'' or ''chemical'' commodities. EPA recognizes that there are many products, especially petrochemical products, being transported by the industry which may not clearly be defined as a ''chemical'' or a ''petroleum'' product. Additionally, according to the proposed subcategorization approach, there may be significant overlap of the two subcategories.

EPA notes from its data collection activities that 92 percent of not previously regulated facilities classified in the Rail/Chemical Subcategory also accept commodities characterized as ''petroleum,'' and that 52 percent of facilities classified in Truck/Chemical Subcategory also accept commodities characterized as ''petroleum.'' EPA solicits comment on the difficulty of defining petroleum and chemical products from a regulatory standpoint.

Because of potential difficulty in defining petroleum and chemical products, in order to ease implementation of this rule, EPA considered establishing one set of effluent limitations for each mode of transportation (e.g., truck, rail, barge) which cleans chemical and/or petroleum cargos. The rationale for the proposed subcategories is further discussed in Section VI of this notice. EPA is soliciting comment on potential applicability issues associated with the proposed subcategorization, and on the feasibility of establishing one set of effluent limitations for facilities

accepting chemical and/or petroleum products.

EPA's assessment of the industry indicates, however, that there is little overlap of cleaning facilities among transportation modes. EPA's survey demonstrated that TEC facilities are almost exclusively involved in cleaning equipment from only one mode of transportation: either highway, railway, waterway, or ocean-going. The one exception is intermodal containers. Intermodal containers are completely enclosed storage vessels which may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport, and are approximately the same size as tank trucks. EPA found that these containers are almost exclusively cleaned at facilities which clean tank trucks. Based on EPA's survey of the industry, intermodals typically account for one to 10 percent of the tanks cleaned at individual tank truck facilities, although at one facility intermodals accounted for up to 94 percent of the tanks cleaned. Therefore, EPA proposes that wastewater generated from cleaning intermodal tanks be handled according to the regulations established for the truck transportation subcategories.

EPA is proposing to establish effluent limitations for existing and new facilities discharging directly to surface waters in the following subcategories: Truck/Food, Rail/Food, and Barge/Food. However, EPA is proposing not to establish pretreatment standards for facilities discharging to POTWs in the following subcategories: Truck/Food, Rail/Food, and Barge/Food Subcategories. EPA is proposing effluent limitations for the food subcategories to control discharges of conventional pollutants which may adversely affect waterways when discharged directly to surface waters. However, because few priority toxic pollutants were found in food wastewaters and POTWs have the ability to treat conventional pollutants, EPA concluded that it was unnecessary to propose pretreatment limits for the food subcategories.

EPA is also proposing not to establish effluent limitations or pretreatment standards for existing or new facilities in the remaining subcategories: Truck/Hopper, Rail/Hopper and Barge/Hopper. Closed-top hopper trucks, rails, and barges are generally used to transport dry bulk materials such as coal, grain, and fertilizers. Raw wastewater generated from cleaning the interiors of hoppers was found to contain very few priority toxic pollutants at treatable levels. This is likely due to the fact that the residual materials (heels) from dry bulk goods are easily removed prior to washing and that relatively little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. This results in low pollutant loadings present in the wastewater discharges from hopper tank cleaning. Based on the low pollutant loads associated with wastewater discharge from the hopper subcategories, the Agency concluded that it need not establish nationally-applicable effluent limitations for these subcategories. Rather, direct dischargers will remain subject to effluent limitations established on a case by case basis using best professional judgement, and indirect dischargers may be subject to local pretreatment limits as necessary to prevent pass-through or interference. EPA solicits comments on the appropriateness of not regulating hopper facilities. EPA also solicits data on pollutant levels in wastewater from hopper facilities.

The proposed regulation would not apply to wastewaters generated from cleaning the interiors of drums or intermediate bulk containers (IBCs). In 1989, EPA conducted an analysis on the pollutant loadings associated with the drum reconditioning industry. Drum reconditioning operations generate wastewater from cleaning the interiors of drums before the drum is reconditioned, scrapped, or recycled. The Preliminary Data Summary for the Drum Reconditioning Industry (EPA 440/1–89/101 September 1989) estimated that there were 450 facilities which accepted approximately 50 million drums in 1985. These drums contained approximately 124 million pounds of residue. This study of the industry concluded that wastewater generated from drum reconditioning operations did not merit national regulation at that time because of the low pollutant loads associated with this industry. Since this study was conducted, the reconditioning industry has grown to include other forms of transportation containers which were not initially considered in EPA's study, namely IBCs. IBCs are portable containers with 450 liters (119 gallons) to 3,000 liters (793 gallons) capacity. In comparison, drums typically have 208 liters (55 gallons) capacity. Facilities cleaning IBCs generate wastewater from cleaning the interior of the IBC prior to re-using the container. Based on data collected in EPA's questionnaire, there are approximately 173 TEC facilities which accept IBCs for cleaning. The Association of Container Reconditioners estimates that there are approximately 600,000 IBCs manufactured each year. By comparison, they estimate that there are over 40 million drums manufactured and recycled each year.

Although EPA does not have data on the pollutant loadings associated with the cleaning of IBCs, EPA has concluded that IBCs are used by industries as an interchangeable replacement for drums and are therefore used for the storage and transport of cargos similar to drums. Because of this, EPA expects that wastewater generated from cleaning the interiors of IBCs may be similar to the wastewater generated from cleaning the interiors of drums. For this reason, EPA is proposing not to regulate wastewater generated from cleaning IBCs. EPA is soliciting comment and data on the pollutant loads associated with IBC cleaning wastewater, and on the initial decision not to include IBC wastewater within the scope of this guideline.

The focus of this proposed rule is on transportation equipment cleaning facilities that function independently of other industrial activities that generate wastewater. This proposal would therefore not apply to wastewater discharges from transportation equipment cleaning operations located at industrial facilities regulated under other Clean Water Act effluent guidelines, provided that the facility cleans only tanks containing cargos or commodities generated or used on-site, or by a facility under the same corporate structure.

EPA has identified TEC wastewaters at facilities subject to guidelines which include Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) (40 CFR part 414); Centralized Waste Treatment (CWT) (proposed 40 CFR part 437, 60 FR 5464, January 27,1995); Dairy products processing point source category (40 CFR part 405); Inorganic chemicals manufacturing point source category (40 CFR part 415); Petroleum refining point source category (40 CFR part 415); Industrial Waste Combusters (proposed 40 CFR part 444, 63 FR 6325, February 6, 1998); and Metal Products and Machinery (MP&M) (new regulation to be proposed in 2000). Most such facilities commingle tank cleaning wastewater with wastewater from other processes for treatment. For example, the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) (40 CFR part 414) effluent guidelines specifically list tank car washing as a covered process wastewater.

The promulgated and proposed regulations for these industries typically include on-site washwaters. The general regulatory definition of process wastewater includes water that comes in contact with raw materials (40 CFR 401.11(q)), which would include wastewater generated from cleaning the

interiors of tanks containing those raw materials. For those facilities where on-site washwaters are not specifically covered by the applicable guideline, EPA believes that facilities will commingle and treat washwaters with other process wastewater because an industrial facility will clean tanks that have transported commodities similar in nature to the products produced at that facility. Therefore, the wastewater generated from cleaning the tank interiors will contain contaminants similar in treatability to process wastewater at that facility.

Not previously regulated facilities are those facilities whose major process wastewater streams are not already covered or proposed to be covered by other Clean Water Act effluent guidelines. In order to prevent an industrial facility from accepting tank cargos which may generate wastewater inconsistent with treatment in place at the facility, EPA proposes that the exclusion for industrial facilities be allowed only if that facility is cleaning tanks containing materials which have been generated at, or used by, that facility. This would prevent an industrial facility that accepts tanks for commercial cleaning purposes from being excluded from the TEC guideline.

The rule also does not apply to facilities that are commercial treaters of wastewater that only clean tanks and containers as a part of the off-loading process of the wastes. The categorical limitations and standards to be established for the Centralized Waste Treatment Category and codified at 40 CFR part 429, would specifically cover tank washings at CWT facilities (60 FR 5464.) EPA currently intends to repropose CWT limitations and standards in 1998 and take final action in 1999.

Although EPA believes that it has clearly defined what operations are intended to be covered by this regulation, EPA expects that there are some facilities engaged in operations which may be difficult to define, especially with regard to repair and maintenance. An example of a facility which would be regulated under the TEC effluent guidelines would be a site which only engages in the cleaning of the interiors of railcars after the transportation of chemicals. The site would clearly be considered an affected facility under the TEC effluent guidelines. An example of a site engaged in operations which could potentially overlap with other effluent guidelines and cause confusion for permitting authorities would be a facility which cleans the interiors of railcars prior to performing maintenance and rebuilding operations on the railcar.

EPA is currently developing effluent limitations guidelines and standards for the Metal Products and Machinery (MP&M) industry. The MP&M category applies to industrial sites engaged in the manufacturing, maintaining or rebuilding of finished metal parts, products or machines. This regulation will apply to process wastewater discharges from sites performing manufacturing, rebuilding or maintenance on a metal part, product or machine to be used in one of the following industrial sectors: Aerospace; Aircraft; Electronic Equipment; Hardware; Mobile Industrial Equipment; Ordnance; Stationary Industrial Equipment; Bus and Truck; Household Equipment; Instruments; Motor Vehicle; Office Machine; Printed Wiring Boards; Job Shops; Precious Metals; Railroad; and Ships and Boats.

Typical MP&M unit operations which may overlap with TEC operations include abrasive blasting, acid and alkaline cleaning, chemical conversion coating, corrosion preventive coating, and associated rinsing.

There may be instances where facilities which predominately engage in cleaning operations perform ancillary MP&M operations on the barges, railcars, or tankers they are cleaning as a part of their TEC operations. EPA proposes that the process wastestreams from those ancillary MP&M activities be regulated solely by the TEC effluent guideline. Likewise, facilities which are predominately engaged in MP&M operations and clean barges, railcars, or tankers as part of those activities are proposed to be regulated by the MP&M guideline and are excluded from this guideline.

EPA is soliciting comment from any industrial site which has the potential to be covered by TEC and MP&M but is uncertain as to their appropriate classification. Such facilities may supply information detailing what operations they are performing, and the volume and nature of wastewater generated from those operations. The Agency does recognize that the approach listed above requires the permitting authority to decide whether a facility is predominately engaged in either TEC or MP&M operations. The general pretreament regulations do set forth a procedure by which an industrial user may request that EPA or the State, as appropriate, provide a written certification as to whether the industrial user falls within a particular pretreatment subcategory (40 CFR 403.6) EPA is also soliciting comment from permitting authorities as to whether the approach outlined above will result in easier, or more difficult, implementation of the TEC and MP&M regulations, and on alternative applicability approaches.

EPA also has considered establishing a minimum flow level for defining the scope of the regulation in order to ensure appropriate regulatory requirements for small businesses. EPA focused its analysis on the Truck/Chemical, Rail/Chemical and Barge/Chemical & Petroleum Subcategories because of the large population of facilities potentially affected by this proposal. The Agency's analysis found that 54 small facilities (about 7.8 percent of all regulated facilities) in the Truck/Chemical Subcategory have a wastewater flow of 8,000 gallons or less per day. These 54 small facilities (18.7 percent of the total facilities in the subcategory) discharge 56,900 toxic pounds or 14 percent of the total discharge for the subcategory at the 8,000 gallons per day flow level. The Agency notes that the discharge of pollutants from small facilities constitutes a proportional amount of the pollutant loadings discharged in the subcategory. The Agency has also looked at 2,000, 4,000, and 6,000 gallons per day flow levels for this subcategory, in addition to conducting a similar analysis for the Truck/Food, Rail/Food, and Barge/Food Subcategories.

In each case where EPA examined a potential flow cut off, the pollutant loadings discharged by smaller facilities were proportional to the loadings discharged by the subcategory as a whole. EPA concluded that there was no obvious breakpoint that could be used to establish an exclusion for small facilities that would not also exclude a proportional amount of pollutants discharged to the nation's waterways. For comparison, in the MP&M effluent guideline, EPA proposed a flow exclusion for small facilities. In this case, EPA demonstrated that 80 percent of the total industry loadings were discharged by only 20 percent of the MP&M facilities. EPA concluded that a minimum flow level was reasonable because excluding 80 percent of the facilities in the industry only excluded 20 percent of the pollutant loadings. However, in the case of the TEC industry, EPA has identified no similar rationale for providing such a low flow exclusion for small facilities. EPA is therefore not proposing to establish a minimum regulatory flow level for the TEC point source category.

At the request of the Small Business Advocacy Review Panel, EPA also estimated the effects of excluding all small businesses, defined as those with revenues under $5 million annually.

This would eliminate an estimated 191 of 692 facilities (28%) from coverage by the proposed rule, while eliminating 20 to 25 percent of the baseline toxic loadings. Thus, as with the flow based facility exclusion discussed above, this option would remove roughly a proportionate amount of both loadings and facilities from coverage. EPA is therefore not proposing to establish an exclusion for small businesses, but is soliciting comment on this option, or on any alternative approaches that the Agency may use to minimize impacts on small businesses.

IV. Profile of the Transportation Equipment Cleaning Industry

A. Transportation Equipment Cleaning Facilities

The TEC industry includes facilities that generate wastewater from cleaning the interiors of tank trucks, closed-top hopper trucks, rail tank cars, closed-top hopper rail cars, intermodal tank containers, inland tank barges, closed-top hopper barges, ocean/sea tankers, and other similar tanks or containers used to transport cargos or commodities that come into direct contact with the tank or container interior. Transportation equipment cleaning is performed in order to prevent cross-contamination between products or commodities being transported in the tanks, containers, or hoppers, and to prepare transportation equipment for repair and maintenance activities such as welding. The cleaning activity is a necessary part of the transportation process.

Based upon responses to EPA's 1994 Detailed Questionnaire for the Transportation Equipment Cleaning Industry (see discussion in Section V.B of this notice), the Agency estimates that there are approximately 2,405 TEC facilities in the United States. This includes approximately 1,166 previously regulated TEC facilities and 1,239 not previously regulated TEC facilities. Of the TEC facilities not previously regulated, EPA estimates that 692 facilities discharge to either a POTW or to surface waters. The remaining 547 facilities are considered zero discharging.

TEC facilities are located in at least 37 states and in all 10 EPA regions. By state, the largest number of facilities are in Illinois. By EPA region, the largest concentration of facilities is in Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin). Most TEC facilities are located in the industrial portions of the United States.

The TEC industry consists of facilities that vary in size from one-or two-person shops to large corporations that operate many facilities nationwide. The TEC industry shows a correspondingly wide range of annual number of tanks cleaned by facilities, from less than 10 tanks per year to more than 10,000 tanks per year.

Tank cleaning may be performed as a commercial activity or as an in-house cost of doing business. Additionally, the tanks being cleaned may be owned by the facilities performing cleaning or may be owned by their customers. Overall, the TEC industry is characterized by a large number of facilities that clean relatively few tanks and a small number of facilities that clean a relatively large number of tanks.

The TEC industry consists of distinct transportation sectors: the trucking sector, the rail sector, and the barge shipping sector. Each one of these sectors may have different technical and economic characteristics. The transportation industry transports a wide variety of commodities, and TEC facilities therefore clean tanks and containers with residues (heels) from a broad spectrum of commodities such as food-grade products, petroleum-based commodities, organic chemicals, inorganic chemicals, soaps and detergents, latex and resins, hazardous wastes, and dry bulk commodities. TEC facilities also vary greatly in the level of wastewater treatment that they currently have in place. Treatment at existing TEC facilities ranges from no treatment to advanced tertiary treatment. The majority of TEC facilities discharging to surface waters currently employ primary treatment such as oil water separation or gravity separation followed by biological treatment. Indirect discharging facilities typically employ some form of primary treatment, such as oil water separation, gravity separation, dissolved air flotation, or coagulation and flocculation. A relatively small number of direct and indirect currently facilities currently employ advanced tertiary treatment such as activated carbon adsorption.

In 1994, approximately 2,440,000 tanks and containers were cleaned in the U.S by not previously regulated TEC facilities. Of all tanks cleaned commercially, tank trucks account for approximately 87 percent, intermediate bulk containers account for three percent, closed-top hopper trucks account for three percent, intermodal tank containers account for three percent, and rail tank cars account for two percent. The remaining tank types each account for less than one percent of all tanks cleaned. Approximately 52 percent of TEC facilities clean a variety of cargo types. Approximately 31 percent clean only food grade products, beverages, and animal and vegetable oils (food grade facilities), approximately eight percent clean only petroleum and coal products (petroleum facilities), and approximately two percent clean only dry bulk cargos.

The majority of TEC facilities discharge their wastewater indirectly to a publicly owned treatment works (POTW). EPA estimates that there are 669 indirect discharging TEC facilities. A smaller number, approximately 23, discharge wastewater directly to surface waters of the United States.

EPA estimates that there are approximately 547 facilities which are considered zero or alternative dischargers and do not discharge wastewater directly to surface waters or indirectly to a POTW. Methods of zero or alternative discharge in use by the TEC industry include applying wastewater to land, hauling wastewater off-site to other treatment works (e.g., Centralized Waste Treatment Works (CWT) or hazardous waste Treatment Storage and Disposal Facilities (TSDFs)), deep well injecting wastewater, sending wastewater to an on-site evaporation pond or mat, or employing total recycle/reuse of wastewater.

B. Transportation Equipment Cleaning Processes

Interior cleaning of cargo tanks and containers is conducted for two primary reasons: to prevent contamination between cargos and to facilitate internal inspection and repair. An additional purpose of tank cleaning is to render the tank interior nonexplosive and nonflammable to provide a safe environment for manual cleaning and for tank repairs that require ''hot work'' (e.g., welding or cutting).

Although different types of tanks are cleaned in various manners, the basic cleaning process for each tank is similar. A typical tank cleaning process is as follows:

- Identify the cargo last transported in the tank;
- Determine the next cargo to be transported;
- Drain the tank heel (residual cargo) and, if necessary, segregate the heel for off-site disposal;
- Rinse the tank (pre-rinse);
- Wash the tank using one or more cleaning methods and solutions;
- Rinse the tank; and
- Dry the tank.

The cleaning facility determines the cargo last transported in the tank to: (1) Assess the facility's ability to clean the tank efficiently; (2) determine the appropriate cleaning sequence and

cleaning solutions; (3) evaluate whether the residue cleaned from the tank will be compatible with the facility's wastewater treatment system; and (4) establish an appropriate level of health and safety protection for the employees who will clean the tank. The next cargo to be transported in the tank is identified to determine if the available level of cleaning at the facility is adequate to prevent contamination of the next cargo. The facility may decide to not clean a tank based on any of the preceding concerns.

Once a tank has been accepted for cleaning, the facility checks the volume of heel (residual cargo) in the tank and determines an appropriate heel disposal method. Any water-soluble heels that are compatible with the facility's treatment system and the conditions of the facility's wastewater discharge permit are usually combined with other wastewater for treatment and discharge at the facility. Incompatible heels are segregated into drums or tanks for disposal or re-use by alternative means, which may include re-use onsite, return to consignee, sale to a reclamation facility, landfilling, or incineration. The TEC facility may re-use heels such as soaps, detergents, solvents, acids, or alkalis as tank cleaning solutions or as neutralizers for future heels and for wastewater treatment.

Cleaning processes vary among facilities depending on available cleaning equipment, the cargos last transported in the tanks to be cleaned, and the state of the product last transported in the tank. Some residuals require only a water rinse (e.g., sugar), while others require a detergent or strong caustic solution followed by a final water rinse (e.g., latex or resins). Hardened or caked-on products sometimes require extended processing time or special cleaning equipment. Typical cleaning equipment includes low- or high-pressure spinner nozzles or hand-held wands and nozzles. Spinner nozzles, which are operated through the main tank hatch, are designed to rotate in an overlapping spray pattern that cleans the entire interior of the tank. Operating cycles range from rinse bursts to 20 minutes or longer caustic washes. Washing with hand-held wands and nozzles achieves the same result as with high-pressure spinner nozzles, but requires facility personnel to manually direct the wash solution across the interior surface of the tank. After cleaning, tanks are usually dried and inspected.

Section 4.0 of the Technical Development Document contains a more detailed description of the TEC industry and the unique cleaning processes used for different types of tanks and cargos.

C. Regulatory History for the Transportation Equipment Cleaning Industry

In 1986, EPA published the Domestic Sewage Study ''Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works'' (EPA–503/SW–86–004, February 1986), which identified TEC facilities as potentially contributing large amounts of hazardous wastes to POTWs.

In response to the Domestic Sewage Study, EPA conducted a sampling program to obtain and analyze wastewater and wastewater treatment sludge samples at eight TEC facilities. During this program, EPA sampled one aircraft, three tank truck, two rail tank car, and two tank barge cleaning facilities. Raw TEC wastewater samples and, where appropriate, treated effluent and sludge samples were collected at each facility. In addition, EPA's Toxicity Characteristic Leaching Procedure was used to obtain extracts of sludge samples for analysis. The samples were analyzed for analytes in the 1987 Industrial Technology Division List of Analytes. This list contains conventional pollutants and EPA's priority toxic pollutants (excluding fecal coliform bacteria and asbestos) as well as 285 other organic and inorganic nonconventional pollutants or pollutant characteristics. These additional pollutants were derived from other EPA lists, including the Superfund Hazardous Substance List, RCRA Appendix VIII and Appendix IX, and the list of analytes proposed to be added to RCRA Appendix VII by the Michigan Petition (49 FR 49793).

EPA also investigated the size of the TEC industry by identifying TEC facilities from several sources, including trade publications, Dun & Bradstreet, EPA's Permit Compliance System, trade associations, state regulatory agencies, and the U.S. Coast Guard. Using the wastewater sampling data and industry size data, EPA estimated the total discharge of pollutants from the TEC industry and performed an environmental impact analysis.

In 1989, EPA published the ''Preliminary Data Summary for the Transportation Equipment Cleaning Industry'' (EPA 440/1–89/104, 1989) which summarized the findings of the 1986–87 study and forms the basis for EPA's decision to develop effluent guidelines specifically for the TEC point source category. A description of EPA's data gathering efforts on the TEC industry since completion of the 1986–1987 study is provided in Section V below.

V. Summary of Data Collection Activities

EPA collected data necessary to develop effluent limitations guidelines and standards for the TEC point source category from many sources, including questionnaires and EPA's sampling program. This section of the preamble summarizes these data-collection activities, which are further discussed in Section 3.0 of the Technical Development Document.

A. Preliminary Data Summary

Prior to 1992, EPA conducted two studies of the TEC industry. The first study was performed during the 1973–1974 period for the Transportation Industry Point Source Category. Information was obtained from only a few TEC facilities and was limited to conventional pollutants. The study was not specific to TEC processes and wastewaters and did not result in any regulations for the TEC industry. The second study was performed during the 1986–87 period in response to the Domestic Sewage Study (DSS), which found that TEC facilities discharged high levels of conventional, toxic, and nonconventional pollutants in raw and treated wastewaters. The study focused on characterizing raw wastewater at eight TEC facilities, and, where appropriate, treated effluent and sludge samples. The second study also included a preliminary investigation to determine the size of the TEC industry by identifying TEC facilities. The resulting TEC wastewater sampling data and industry size data were used to estimate the total discharge of priority toxic pollutants from the TEC point source category and to perform an environmental impacts analysis. The results of the study were published in the Preliminary Data Summary for the Transportation Equipment Cleaning Industry in September of 1989 (EPA 44/1–89/104), which formed the basis for EPA's decision to develop effluent guidelines specifically for the TEC industry.

B. Development of the TECI Site Identification Database

The first phase of data collection for development of effluent limitation guidelines for the TEC industry entailed a comprehensive search to identify facilities that potentially perform TEC operations. EPA identified all potential segments within the TEC industry and then attempted to identify all facilities or a statistical sample of all facilities that potentially perform TEC operations

within each industry segment. The TEC industry is characterized by industry segments based on tank type cleaned and business operational structure. Tank types initially considered within the potential scope of the TEC industry include tank trucks, closed-top hopper tank trucks, intermodal tank containers, intermediate bulk containers, rail tank cars, closed-top hopper rail cars, inland tank barges, closed-top hopper barges, ocean/sea tankers, and other similar tanks (excluding drums). Business operational structures include independents, carriers, shippers, and builders/leasers.

EPA was unaware of any single source or set of sources that specifically identify facilities that perform TEC operations. Likewise, there is no single Standard Industrial Classification (SIC) code or set of SIC codes that specifically identify facilities that perform TEC operations. Therefore, EPA performed an exhaustive search to identify all available sources listing facilities that potentially perform TEC operations. These sources included transportation industry directories, Dun & Bradstreet's Information Services, several Agency databases, state and local authorities, trade journals, and trade associations. Some sources specifically identified facilities that perform TEC operations. Other sources identified potential TEC facilities by one or more of the following criteria: (1) They own, operate, or maintain transportation equipment; (2) they own, operate, or maintain equipment used by the transportation segments applicable to the TEC industry; or (3) they report under an SIC code that includes facilities that have the potential to own, operate, or maintain transportation equipment.

Listings of facilities that potentially perform TEC operations were entered into the TECI Site Identification Database. The database contains information for 7,940 facilities that represent a total potential industry population of 30,280 facilities (for some sources, only a portion (i.e., a statistical sample) of the total available records were received and entered into the database). This database formed the basis of EPA's statistical sample frame for subsequent data-gathering activities.

C. Survey Questionnaires

Industry responses to questionnaires administered by EPA under the authority of Section 308 of the Clean Water Act were a major source of information and data used in developing the proposed TEC industry effluent limitations guidelines and standards. EPA administered two questionnaires to the TEC industry—the 1993 screener questionnaire and the 1994 detailed questionnaire.

1. 1993 Transportation Equipment Cleaning Industry Screener Questionnaire

EPA developed a screener questionnaire to distribute to a statistical sample of all facilities that potentially perform TEC operations. The objectives of the questionnaire were to: (1) Identify facilities that perform TEC operations; (2) evaluate TEC facilities based on wastewater, economic, and/or operational characteristics; (3) develop technical and economic profiles of the TEC industry; (4) select a statistical sample of screener respondents to receive a detailed questionnaire; and (5) select facilities for EPA's TEC industry engineering site visit and sampling program.

EPA developed the screener questionnaire for the TEC industry based on experience with previous screener questionnaires from other point source categories. The Agency requested site-specific 1992 calendar year information in the four-page screener questionnaire. Information requested included facility name, address, contact person, owner, number of employees, annual revenues, and operational structure (e.g., carrier, independent). Also included were questions concerning TEC operations such as whether the facility performs TEC operations, generates TEC process wastewater, discharge information (type and daily volume), number of tank interior cleanings performed by tank type, percentage of tank interior cleanings performed by cargo type, types of cleaning processes performed, and treatment technologies or disposal methods on-site.

The screener questionnaire was sent to a stratified random sample of 3,240 facilities identified from the TECI Site Identification Database. The Agency did not mail screener questionnaires to all 7,940 potential tank interior cleaning facilities in the TECI Site Identification Database; however, the Agency believed that a sample size of 3,240 would sufficiently represent the variety of technical and economic characteristics of the TEC industry and meet the objectives of the screener questionnaire while minimizing the burden to both industry and government. EPA used facility type (e.g., tank truck cleaning, rail tank car cleaning, tank barge cleaning, and transfer facilities) and level of assurance (i.e., the probability that the facility performs TEC operations) as criteria to select facilities to receive a screener questionnaire. These criteria were chosen to account for both the diverse nature of the TEC industry and the varying reliability of the sources used to develop the TECI Site Identification Database. Additional detail concerning selection of the statistical sample of facilities to receive a screener questionnaire is included in Section V.D of this preamble.

EPA received responses from 730 of these facilities that indicated that they performed TEC operations and generated TEC wastewater (i.e., in scope responses). These facilities represent an estimated TEC industry population of 2,739 facilities. The distribution of estimated industry population by industry segment are as follows:

TABLE 2.—POPULATION ESTIMATES

Industry segment	Estimated total number of facilities
Barge	72
Truck	2,432
Rail	189
Transfer Stations	46
Total	2,739

2. 1994 Transportation Equipment Cleaning Industry Detailed Questionnaire

EPA developed a detailed questionnaire for distribution to a statistical sample of facilities that perform TEC operations and generate TEC wastewater. The objectives of the questionnaire were to: (1) Develop an industry profile; (2) characterize TEC processes, industry production (i.e., number and type(s) of tanks cleaned), and water usage and wastewater treatment; (3) perform an industry subcategorization analysis; (4) develop pollutant loadings and reductions estimates; (5) develop compliance cost estimates; and (6) determine the impacts of the rulemaking on the TEC industry.

The Agency developed the detailed questionnaire to collect information necessary to develop effluent limitations guidelines and standards for the TEC point source category. The detailed questionnaire included two parts: (1) Part A: Technical Information and (2) Part B: Financial and Economic Information. Technical information collected was specific to calendar year 1994. Financial and economic information collected was specific to calendar years 1992 through 1994. In part A, EPA requested information necessary to identify the facility and to determine wastewater discharge locations. It also requested information necessary to develop an industry profile, characterize TEC processes and

production, and perform an industry subcategorization analysis. Information regarding wastewater generation, wastewater recycle/reuse, treatment technologies currently in place, the availability of wastewater stream characterization data and/or treatability data, use of pollution prevention, and water conservation activities were also requested. In part B, EPA requested information necessary to identify the facility and facility's corporate hierarchy, to develop an industry economic profile, and to assess facility-level, business entity-level, and corporate parent-level economic impacts associated with TEC industry effluent guidelines.

The Agency sent the Detailed Questionnaire to a stratified random sample of 275 facilities that perform TEC operations and generate TEC wastewater as identified from responses to the TECI screener questionnaire. The following four variables were considered (although not necessarily directly selected as basis for sample stratification) in selecting facilities to receive a detailed questionnaire: tank type, operational structure, number of employees, and treatment in place. Each of the potential detailed questionnaire recipients was classified based on these four variables. Facilities with multiple classifications were assigned a primary classification. The sampling strategy was designed to meet two objectives most effectively: (1) to ensure that at least one facility was sampled from most cells (i.e., combinations of the four variables listed above), and (2) to ensure the variance around the national estimates would not be grossly inflated in attempting to meet the first objective.

EPA received responses from 176 of these facilities that were used in subsequent analyses. During review of the detailed questionnaire responses, EPA classified each facility into one of the following categories:

(1) Direct or Indirect Discharge: TEC facilities that discharge wastewaters directly to surface waters or indirectly to a POTW that are not located at industrial facilities covered under existing effluent guidelines.

(2) Zero or Alternative Discharge: TEC facilities that do not discharge wastewater to U.S. surface waters or to a POTW, including facilities that haul TEC wastewater off site to a Centralized Waste Treatment facility, practice total wastewater recycle/reuse, or land apply TEC wastewater.

(3) Previously Regulated Facilities: Industrial facilities that are covered by existing or upcoming effluent guidelines which also generate transportation equipment cleaning wastewaters. TEC operations are a very small part of their overall operations. These include facilities subject to the Organic Chemicals, Plastics, and Synthetic Fibers Effluent Guidelines, Dairies Effluent Guidelines, Centralized Waste Treaters Effluent Guidelines, and Metals Products and Machinery Effluent Guidelines.

TABLE 3.—NATIONAL ESTIMATES OF TEC INDUSTRY POPULATION BY FACILITY TYPE

Facility type	Estimated number of facilities in total population
Direct or Indirect Discharge	692
Zero Discharge	547
Previously regulated	1,166

TABLE 4.—NATIONAL ESTIMATED TEC INDUSTRY POPULATION BY SUBCATEGORY FOR ALL TEC FACILITIES NOT PREVIOUSLY REGULATED

Subcategory	Estimated number of facilities in total population [a]
Truck/Chemical	288
Rail/Chemical	38
Barge/Chemical & Petroleum	15
Truck/Food	173
Rail/Food	86
Barge/Food	2
Truck/Petroleum	34
Rail/Petroleum	3
Truck/Hopper	34
Rail/Hopper	5
Barge/Hopper	12
Total	692

[a] Differences occur due to rounding.

As evidenced by the data collection activities undertaken by EPA, the Agency has attempted to develop accurate population estimates for each subcategory. The Agency solicits comment and sources of data which may provide additional information on the population of affected facilities.

D. Development of National Population Estimates

As discussed previously, EPA distributed screener questionnaires to a statistical sample of all facilities that potentially perform TEC operations. EPA then distributed detailed questionnaires to a statistical sample of facilities that perform TEC operations and generated TEC wastewater as identified by responses to the screener questionnaires. This section describes EPA's approach in developing national population estimates for the TEC industry based on these statistical samples. Section 3.0 of the Technical Development Document and the Statistical Support Document contained in the administrative record for this rule contain additional detail concerning development of national population estimates.

EPA considered each source used to develop the TEC industry Site Identification Database to be a statistical ''stratum.'' EPA selected a simple random sample of facilities from each stratum to receive a screener questionnaire. Following this approach, each sampled facility can be used to characterize other facilities within the same stratum. For example, if a sampled facility falls within stratum ''A'' and the ''weight'' of that stratum is five, the responses received from that facility represent a total of five facilities in the overall TEC industry population. Following receipt of the screener questionnaire responses (to account for non-respondents), EPA determined a weight associated with each stratum using the following equation:

Stratum Weight = N_h/n_h

Where:

N_h = Total number of facilities in stratum.

n_h = Number of facilities that responded to the screener questionnaire.

Note that several screener questionnaire strata with similar weighting factors were collapsed into a single stratum, and assigned a conglomerated weighting factor for the entire collapsed stratum, to reduce the variability of the population estimates.

The approach used to develop TEC industry population estimates based on the detailed questionnaire responses is similar to that used for the screener questionnaire, with two differences. One, EPA developed additional strata to ensure selection of adequate sample populations within the following four variables: tank type, operational structure, number of employees, and wastewater treatment in place. Two, the statistical methodology used to account for non-respondents was based on facility subcategory rather than stratum.

E. Site Visits and Wastewater Sampling Program

EPA conducted 39 engineering site visits at 38 facilities from 1993 through 1996 to collect information about TEC processes, water use practices, pollution prevention practices, wastewater treatment technologies, and waste disposal methods. These facilities were also visited to evaluate them for potential future sampling. In general, EPA visited facilities that encompass

the range of TEC facilities, including tank type cleaned, cargo cleaned, operational structure, discharge status, and wastewater treatment in place.

EPA conducted 20 sampling episodes at 18 facilities (two facilities were sampled twice) from 1994 through 1996. Sampling episodes were conducted to: (1) Characterize the pollutants in the wastewater being discharged directly to surface waters and indirectly to POTWs; and (2) generate pollutant treatment system performance data from facilities with well-operated wastewater treatment systems. The Agency used the same general criteria to select facilities for sampling as those used to select facilities for site visits. Of these sampling episodes, 12 were conducted to obtain untreated TEC process wastewater and treated final effluent characterization data from facilities representative of the variety of TEC facilities. Wastewater treatment sludge was also characterized at two of the 12 facilities to determine whether the sludge was hazardous. Each of these ''characterization'' sampling episodes comprised one sampling day.

EPA conducted eight additional sampling episodes to obtain both untreated TEC process wastewater characterization data and to evaluate the effectiveness and variability of wastewater treatment units used to treat TEC wastewater. Of these eight sampling episodes, one was conducted for one day, two were conducted for three days each, four were conducted for four days each, and one was conducted for five days.

At several facilities, sampled waste streams included TEC wastewater commingled with other wastewater sources including exterior cleaning wastewater, boiler wastewater, and contaminated storm water. At one facility, boiler condensate was sampled to characterize this waste stream. Waste stream samples were typically analyzed for volatile organics, semivolatile organics, organo-halide pesticides, organo-phosphorus pesticides, phenoxy-acid herbicides, dioxins and furans, metals, and classical wet chemistry parameters. The analytes typically found in TEC wastewaters are discussed in Section VII of this preamble and in the Technical Development Document.

VI. Industry Subcategorization

For today's proposal, EPA considered whether a single set of effluent limitations and standards should be established for this industry, or whether different limitations and standards were appropriate for subcategories within the industry. In reaching its decision that subcategorization is required, EPA considered various factors. The Clean Water Act (CWA) requires EPA, in developing effluent limitations, to assess several factors including manufacturing processes, products, the size and age of the facility, wastewater use, and wastewater characteristics. The TEC industry, however, is not typical of many of the other industries regulated under the CWA because it does not produce a product. Therefore, EPA developed additional factors that specifically address the characteristics of TEC operations. Similarly, several factors typically considered for subcategorization of manufacturing facilities were not considered applicable to this industry. The factors considered for subcategorization are listed below:

(1) Cleaning processes (production processes);
(2) Tank type cleaned;
(3) Cargo type cleaned;
(4) Water use practices;
(5) Wastewater characteristics;
(6) Facility age;
(7) Facility size;
(8) Geographical location;
(9) Water pollution control technologies;
(10) Treatment costs; and
(11) Non-water quality impacts.

A. Factors Considered for Basis of Subcategorization

EPA considered a number of potential subcategorization approaches for the TEC industry. EPA used information collected during 39 engineering site visits, the 1993 screener questionnaire for the TEC industry, and the 1994 Detailed Questionnaire for the TEC industry to develop potential subcategorization approaches. EPA considered eleven factors in developing its subcategorization scheme for the TEC industry. A discussion of each is presented below.

1. Cleaning Processes

EPA considered subcategorizing the TEC industry based on the cleaning process used. Cleaning processes vary among facilities depending on the type of tank cleaned and the type of cargo last transported in the tank. Cleaning can be performed using many types of cleaning equipment including low or high pressure spinner nozzles, hand-held wands and nozzles, steam cleaning equipment, or manual cleaning with scouring pads or shovels. Typical cleaning solutions include detergents, acids, caustics, solvents, or other chemical cleaning solutions. The cleaning process used depends greatly on the type of cargo last hauled in the tank. Certain residual material (e.g., sugar) only require a water rinse, while other residual materials (e.g., latexes or resins) require a detergent or strong caustic solution followed by a final water rinse. The state of the product last contained in the tank also affects the cleaning process. Hardened or caked-on products sometime require additional processing time, or may require manual cleaning. For each type of tank cleaned and cargo hauled, the selection of cleaning processes among available alternatives can affect the volume of wastewater generated and the constituents of that wastewater. Flow restriction and the availability of less harmful cleaning solutions as methods of pollution prevention and source control should be considered pollutant control technologies, rather than a defining production characteristic. EPA has decided that subcategorizing the TEC industry based on cleaning processes is not an appropriate means of subcategorization, and considered subcategorization based on either type of tank cleaned or type of cargo transported.

2. Tank Type Cleaned

EPA considered subcategorizing the TEC industry based on the type of tank cleaned. Facilities responding to the TEC industry Detailed Questionnaire reported cleaning nine primary tank types. The tank types reported by respondents are: (1) Tank truck; (2) intermediate bulk container; (3) intermodal tank container; (4) closed-top hopper truck; (5) rail tank car; (6) ocean/sea tanker; (7) closed-top hopper barge; (8) closed-top hopper rail car; and (9) inland tank barge. Based on data obtained in the TEC industry Detailed Questionnaire, approximately 87 percent of all tanks cleaned are tank trucks. Intermediate bulk containers, intermodal tank containers, and closed-top hopper trucks each account for three percent of all tanks cleaned. Rail tank cars comprise two percent and inland tank barges, ocean/sea tankers, closed-top hopper rail cars, and closed-top hopper barges each comprise less than one percent of all tanks cleaned. Seventy-four percent of all facilities responding to the TEC industry Detailed Questionnaire clean only one primary tank type. An additional 12 percent of facilities clean both tanks and closed-top hoppers within the same mode of transport. Only one percent of responding facilities clean tank types with multiple modes of transport and an additional 13 percent of responding facilities clean miscellaneous combinations of tank types within the same mode of transport.

For each type of tank cleaned, the heel volume and availability of

wastewater flow minimization techniques vary, which may affect wastewater treatment efficiency.

EPA has preliminarily concluded that subcategorizing the TEC industry based, in part, on the type of tank cleaned is an appropriate means of subcategorization due to these differences. Additionally, the vast majority of facilities clean tanks within the same mode of transport and are thus easily identified according to the tank type cleaned.

3. Cargo Type Cleaned

EPA considered subcategorizing the TEC industry based on the cargo type cleaned. Respondents to the TEC industry Detailed Questionnaire reporting cleaning tanks which transported 15 general cargo types. The reported cargo types are listed below:

- Group A—Food Grade Products, Beverages, and Animal and Vegetable Oils;
- Group B—Petroleum and Coal Products;
- Group C—Latex, Rubber and Resins;
- Group D—Soaps and Detergents;
- Group E—Biodegradable Organic Chemicals;
- Group F—Refractory (Nonbiodegradable) Organic Chemicals;
- Group
- G—Inorganic Chemicals;
- Group H—Agricultural Chemicals and Fertilizers;
- Group I—Chemical Products;
- Group J—Hazardous Waste (as defined by RCRA in 40 CFR Part 261);
- Group K—Nonhazardous Waste;
- Group L—Dry Bulk Cargos (i.e., hopper cars); and
- Group M, N, and O—Other (Not Elsewhere Classified).

Of all responding TEC facilities not previously regulated, 48 percent clean only one cargo type while 52 percent clean a variety of cargo types. Of the facilities that reported cleaning only one cargo type, 65 percent reported cleaning food grade products, beverages, and animal and vegetable oils (Group A), 16 percent reported cleaning petroleum and coal products (Group B), and 10 percent reported cleaning ''other cargos'' (Groups M, N and O). A review of the data for facilities that clean two or more cargos suggests that no apparent trend in cargo types cleaned, but rather a wide variety of combinations of ''chemical-type'' cargos.

There are several reasons to consider subcategorization based on type of cargo. Facilities that clean tanks which contained only food grade products (Group A), petroleum grade products (Group B), or dry bulk goods (Group L) represent distinct and relatively large segments of the TEC industry that differ significantly from facilities that clean tanks containing a wide variety of cargos. The type of cargo transported and the type of cleaning processes utilized influences wastewater characteristics. EPA therefore concluded that subcategorization of the TEC industry based, in part, on cargo type may be an appropriate means of subcategorization.

EPA was not able to identify any other distinct segments of the TEC industry among the remaining groups which included Latex, Rubber and Resins (Group C), Soaps and Detergents (Group D), Biodegradable Organic Chemicals (Group E), Refractory (Nonbiodegradable) Organic Chemicals (Group F), Inorganic Chemicals (Group G), Agricultural Chemicals and Fertilizers (Group H), Chemical Products (Group I), Hazardous Waste (Group J), Nonhazardous Waste (Group K), and Groups M, N, and O consisting of cargos not elsewhere classified. EPA concluded that facilities which do not clean primarily food grade products (Group A), petroleum grade products (Group B), or dry bulk goods (Group L) are likely to clean a wide variety of cargos types consisting of various combination of cargos types products. EPA has therefore created a subcategory termed ''chemical'' for any facility that cleans a wide variety of cargos and commodities.

EPA has then defined a ''chemical'' cargo as including Latex, Rubber and Resins, Soaps and Detergents, Biodegradable Organic Chemicals, Refractory (Nonbiodegradable) Organic Chemicals, Inorganic Chemicals, Agricultural Chemicals and Fertilizers, Chemical Products, Hazardous Waste, Nonhazardous Waste, and any other cargo not elsewhere classified. In summary, the ''chemical'' classification includes any cargo or commodity not defined as a food grade product, petroleum grade product, or dry bulk good. EPA has placed any facility in a Chemical Subcategory if 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos or commodities.

EPA originally considered developing separate subcategories for barge chemical and barge petroleum facilities. However, based on raw wastewater characterization data collected in support of this proposed rule, EPA concluded that the wastewater characteristics and treatability of wastewaters generated from barge chemical and barge petroleum facilities were similar, and thus it was reasonable to combine these subcategories. As mentioned previously in Section III, EPA is soliciting comments and data that would address whether the Truck/Chemical and Truck/Petroleum Subcategories should be combined; and whether the Rail/Chemical and Rail/Petroleum Subcategories should also be combined.

As described in Section VII of this notice, Wastewater Use and Characterization, the data collected from the Truck/Chemical and Truck/Petroleum Subcategories, and the Rail/Chemical and Rail/Petroleum Subcategories did not conclusively support combining these subcategories. However, sampling data obtained from the Centralized Waste Treatment Industry was used to characterize TEC wastewater for the Truck/Petroleum and Rail/Petroleum Subcategories. Therefore, the Agency is soliciting comment and data on this preliminary conclusion that the Truck/Chemical and Truck/Petroleum Subcategories; and Rail/Chemical and Rail/Petroleum Subcategories, should not be combined.

Additionally, while the Agency has proposed definitions for ''petroleum'' and ''chemical'' cargos, the Agency realizes that there may be cargos, especially various ''petrochemical'' cargos, which may not obviously be categorized as one type or the other. The determination of whether a facility is accepting ''petroleum'' or ''chemical'' cargos may be critical, due to the fact that the Agency has not proposed regulation for the petroleum subcategory. The Agency is concerned that this determination may be difficult and burdensome for the permitting authority and the affected facility. The Agency solicits comment from permitting authorities and affected facilities on the implementation issues surrounding the proposed subcategorization approach, especially with regard to the chemical and petroleum subcategories.

In order to address these concerns, the Agency has considered combining the petroleum and chemical subcategories and establishing one set of effluent limitations for facilities accepting chemical or petroleum cargos. EPA solicits comment on this alternative approach.

As part of today's proposal, the Agency calculated pollutant loadings for each option in each subcategory, as described in section VIII of this notice. The loadings calculations were used as a parameter for evaluating technology options in each subcategory. The Agency notes that a substantial amount of the toxic pounds-equivalent of pollutants removed in several subcategories are due to the removals of

a few pesticides found in the raw wastewater at one or two facilities. Specifically, about 90% of the toxic removals estimated for 288 indirect dischargers in the truck chemical subcategory are accounted for by 6 pesticides (Azinphos Ethyl, Coumaphos, Disulfoton, EPN, 4,4′-DDT, and Dieldrin—note that the latter three have been banned for a number of years); and about 80% of the toxic removals estimated for the 38 indirect dischargers in the rail chemical subcategory are accounted for by 3 pesticides (Dieldrin, Simazine, and Strobane). Pesticides are fairly toxic and generally have high toxic weighting factors. Relatively small removals in terms of loadings can result in significant reductions in toxic impacts. Because most of the projected toxic removals for indirect dischargers in the truck and rail chemical subcategories come from a few pesticides, the Agency solicits comment on an alternative regulatory approach that would establish separate subcategories for such facilities which accept tanks containing pesticide-containing cargos for cleaning.

This approach was discussed at some length by the Small Business Advocacy Review (SBAR) Panel in its consideration of options that might provide relief to small businesses, and was specifically endorsed by SBA. If the Agency were to pursue this approach, it might decide to establish a set of effluent limitations guidelines for a variety of pesticides for any facility that accepts, or potentially accepts, cargos which have transported pesticides. The Agency is concerned, however, that it may be difficult to define a subcategory for pesticide-containing cargos, because the exact source of pesticides found in TEC wastewater samples has often been difficult to establish. Furthermore, if the Agency were to set limits for pesticides, it would need to require monitoring for pesticides, which is generally more expensive than monitoring for the parameters regulated under the current approach. (Note that although pesticides are among the pollutants of concern, the Agency is not currently proposing to establish limits for pesticides; rather the Agency is establishing limits for other pollutants of concern, which it believes will also ensure that treatment adequate to control pesticides is adopted.) Thus, the Agency does not know how many of the estimated 326 indirect dischargers in the truck chemical and rail chemical subcategories would actually benefit from such an approach, and how many might incur higher monitoring costs because they clean some tanks with pesticide residues. EPA requests comment on this issue. EPA would specifically be interested to know whether indirect dischargers in these two subcategories believe such an approach would be workable, and whether there is a significant number of such facilities that do not handle any tanks that might contain pesticide residues. For those facilities that do handle tanks containing pesticide residues, EPA would like to know what percentage of tanks cleaned might contain such residues. EPA might use this information to define a subcategory for facilities with more than a certain percentage of such tanks, in the same way that it is currently defining the chemical subcategories as including facilities for which more than 10% of tanks cleaned had chemical cargos.

This approach may also result in the Agency pursuing a less stringent regulatory technology option for those facilities which do not accept pesticide containing cargos. The SBAR Panel recommended that EPA request comment on whether the remaining loadings of non-pesticide chemicals for indirect dischargers in the truck and rail subcategories warrant regulation. The Agency is thus soliciting comment on the loading reduction estimates, cost-effectiveness and benefits to the environment and POTWs of non-pesticide chemical removals. Note that in these subcategories in today's notice, EPA is not proposing effluent limitations guidelines and standards for any pesticide, nor is it proposing to establish a subcategory for pesticide cargos. Concern has also been expressed about the representativeness of the samples on which the pesticide removal estimated are based. Because pesticides are highly toxic and thus of particular concern, the Agency modified its screening criteria for including samples in which pesticides were detected in its loadings and removals analysis. In general, in order to ensure that detections are representative of the industry and present at treatable concentrations, contaminants are only included in the analysis if they show up in samples from at least two facilities at concentrations of 5 times the minimum detection level or greater, and are at least 50% removed by the proposed treatment. In contrast, all pesticides that were detected even once, at any level, were included in the analysis. Most of the pesticides accounting for the bulk of estimated toxic removals from indirect dischargers in the truck and rail chemical subcategories would not have been included in the analysis under the standard screening criteria, either because they were detected at only one facility or because they were only detected at close to the minimum detection level, or both. EPA believes, however, that the modified screening criteria for pesticides are appropriate for several reasons. First of all, as already noted, pesticides are highly toxic and thus of particular concern. Second, a relatively small amount of sampling data is available for this industry. In the truck chemical subcategory, for example, only ten samples of raw wastewater were analyzed, so that even a single detect represents 10% of samples, which EPA believes is a significant fraction. Finally, wastes from TEC facilities are highly variable, so that one might expect that many of the contaminants that are potentially of concern would only show up in a single sample, and others might not show up in any samples at all. For these reasons, EPA believes that its modified screening criteria for pesticides are appropriate, its loadings and removals analysis is based on the best available data, and the regulatory limits it has proposed for indirect dischargers in these subcategories, based partly on this analysis, is also appropriate. However, the Agency requests comments on this issue, and any data commenters may be able to provide on the loadings of pesticides, or any other contaminant, and TEC facilities.

4. Water Use Practices

TEC facilities use water for cleaning and rinsing as well as for a number of ancillary purposes such as hydrotesting, air pollution control, and process cooling water. Water use varies based on a number of factors including type of tank cleaned, type of cleaning solution utilized, type of cargo last contained in the tank, type of cargo to be transported, and tank capacity. Facilities which clean predominantly tank trucks typically use significant volumes of water for exterior cleaning, whereas facilities which clean rail and barge tanks frequently do little exterior washing. Facilities which clean rail tanks frequently use large volumes of water for tank hydrotesting, whereas tank truck cleaning facilities generate substantially less hydrotesting wastewater. Based on these variations in water use practices among different types of facilities, EPA concluded that the most appropriate method of subcategorization that encompasses water use practices is subcategorization based on the type of tank cleaned and type of cargo cleaned at a facility.

5. Wastewater Characteristics

The volumes and pollutant concentrations contained in TEC tank

interior cleaning wastewater show a large degree of variation among different types of facilities. Wastewater volumes vary greatly based on a number of factors including those cited above. Likewise, the concentration of pollutants present in tank interior cleaning wastewater can vary depending on the type of cargo last hauled, the tank size, the cleaning process utilized and the amount of water used per cleaning operation. Since all of these factors, with the exception of type of tank cleaned and type of cargo cleaned, have been rejected, EPA has concluded that the most appropriate method of subcategorization that encompasses wastewater characteristics is subcategorization based on the type of tank cleaned and type of cargo cleaned at a facility.

6. Facility Age

EPA evaluated the age of facilities as a possible means of subcategorization. EPA evaluated the treatment technologies in place as related to the year in which the facility first conducted TEC operations. Based on this evaluation, the Agency concluded that there is little difference in the treatment technologies in use by older facilities (defined as beginning TEC operations before 1980) as compared to those of newer facilities (defined as beginning TEC operations in or after 1980). EPA has tentatively concluded that subcategorization based on age of facilities is not an appropriate means of subcategorization.

7. Facility Size

EPA considered subcategorization of the TEC industry on the basis of facility size. Four parameters were identified as relative measures of facility size: number of employees, number of tanks cleaned, wastewater flow and revenue. EPA found that facilities of varying sizes generate similar wastewaters and use similar treatment technologies within the proposed subcategorization approach. EPA is not proposing to subcategorize the industry based on facility size.

8. Geographical Location

EPA evaluated the distribution of TEC facilities based on geographic location. In general, TEC facilities tend to be located within the industrialized regions of the country, with relatively high concentrations in the area between Houston and New Orleans and within specific urban areas such as Los Angeles, Chicago, and St. Louis. The major concentrations of rail, truck, and barge cleaning facilities are along the major thoroughfares by rail, road, and inland waterways, respectively. There are no apparent trends of geographic distribution of TEC facilities as related to wastewater characteristics. Based on these analyses, geographic location is not an appropriate means of subcategorization.

9. Water Pollution Control Technologies

There are a number of water pollution control technologies in use in the TEC industry. This variety of technologies results from the wide range of pollutants present in TEC wastewater. As discussed previously, the pollutants present in TEC wastewater are based on factors such as the tank type cleaned and the cargos last contained in the tanks. EPA did not consider subcategorization of the industry based solely on the water pollution control technologies in use as a reasonable method of subcategorization. These control technologies are appropriately considered in evaluation technology options and determining effluent limitations.

10. Treatment Costs

Treatment costs are dependent upon facility water pollution control technologies and facility wastewater flow rates and facility size. These costs vary with the specific treatment technologies and waste disposal methods employed, and therefore do not apply uniformly across a particular segment of the industry. EPA has tentatively determined that subcategorization of the TEC industry based solely on treatment costs is not an appropriate means of subcategorization.

11. Non-Water Quality Impacts

Non-water quality impacts of TEC operations include, among others, impacts from transporting wastes, impacts from disposal of solid wastes, and impacts due to emissions of volatile organics to the air. These impacts vary with the specific treatment technologies and waste disposal methods employed, and therefore do not apply uniformly across a particular segment of the industry. EPA has concluded that subcategorization of the TEC industry based on non-water quality impacts is not an appropriate means of subcategorization.

B. Selection of Subcategorization Approach

Based on its evaluation of above factors, EPA determined that subcategorization of the TEC industry is necessary and that different effluent limitations and pretreatment standards should be developed for subcategories of the industry. EPA concluded that the most appropriate basis for subcategorization of the industry be based on tank type and cargo type cleaned.

EPA solicits comment on the appropriateness of this subcategorization approach. As mentioned previously, EPA believes it has developed a subcategorization approach which addresses the complexities inherent in this industry. Of particular concern to the Agency is the potential difficulty associated with implementing this rule due to potentially overlapping subcategories. EPA solicits comment regarding the proposed subcategorization and on other subcategorization approaches which may be appropriate.

EPA realizes that there may be some overlap between transportation sectors, although this is not a great concern because 99 percent of the facilities surveyed cleaned tanks belonging to only one transportation sector.

EPA also realizes that determining the applicable subcategory of a facility may be somewhat complex, given that many facilities accept a wide range of cargos and commodities which may vary on a daily, monthly, seasonal, or yearly basis.

EPA is proposing that the definition of each subcategory include a production cutoff. In developing this subcategorization approach, EPA has attempted to strike a balance between several divergent factors. On the one hand, EPA's data collection activities indicate that the wastewater generated from cleaning certain cargos and tank types do not discharge significant quantities of toxic pollutants. This includes wastewater generated from cleaning tank trucks, rail tank cars, and barges containing food cargos; closed top hopper trucks, rail cars, and barges containing dry bulk goods; and rail tank cars and tank trucks containing petroleum cargos. On the other hand, EPA has identified wastewaters that contain toxic pollutants in significant quantities from tank trucks and rail tank cars which transport chemical cargos, and barges which transport chemical and petroleum cargos.

EPA is proposing to establish effluent limitations guidelines and pretreatment standards for toxic parameters in the Truck/Chemical, Rail/Chemical, and Barge/Chemical & Petroleum Subcategories. In its subcategorization approach, EPA has attempted to establish guidelines and pretreatment standards for toxic parameters for those facilities that generate wastewater containing toxic pollutants. However, EPA also realizes that a facility may generate wastewater from a variety of cargos which do not all belong to one

classification of food, petroleum, chemical, or dry bulk goods.

In order to address these concerns, EPA has attempted to classify a facility into one subcategory by establishing a hierarchy of applicability as follows: if 10 percent or more of the tanks cleaned on a yearly basis at a tank truck or rail car facility contain chemical cargos, then that facility is placed in the Truck/Chemical or Rail/Chemical Subcategory, and subject to the effluent limitations and pretreatment standards proposed for the Truck/Chemical or Rail/Chemical Subcategory. For a barge facility, if 10 percent or more of the tanks cleaned on a yearly basis contain chemical or petroleum cargos, then that facility is placed in the Barge/Chemical & Petroleum Subcategory and is subject to the effluent limitations proposed for the Barge/Chemical & Petroleum Subcategory.

If a truck or rail facility does not clean more than 10 percent of tanks containing chemical cargos, but does clean more than 10 percent of tanks containing food grade cargos on a yearly basis, then that facility is placed in the Truck/Food or Rail/Food Subcategory. There are no effluent limitations proposed for indirect discharging Truck/Food or Rail/Food facilities, but EPA is proposing effluent limitations for conventional pollutants for direct discharging Truck/Food and Rail/Food facilities.

Similarly, if a barge facility does not clean more than 10 percent of tanks containing chemical and/or petroleum cargos, but does clean more than 10 percent of tanks containing food grade cargos on a yearly basis, then that facility is placed in the Barge/Food Subcategory. There are no effluent limitations proposed for indirect discharging Barge/Food facilities, but EPA is proposing effluent limitations for conventional pollutants for direct discharging Barge/Food facilities.

Remaining rail and truck facilities which clean more than 80 percent of tanks containing petroleum cargos on a yearly basis have been placed in the Truck/Petroleum and Rail/Petroleum Subcategories. Facilities which clean hopper tanks have been placed in the Truck/Hopper, Rail/Hopper, or Barge/Hopper Subcategories. EPA is not proposing to regulate wastewater discharged from the Truck/Petroleum and Rail/Petroleum, and Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories.

EPA is not proposing to regulate toxic parameters for facilities that clean tanks that have transported only petroleum, food, or dry bulk cargos, with the exception of barge facilities that clean tanks containing petroleum cargos.

The Agency believes that this proposed subcategorization approach would allow a facility in a subcategory which is not subject to regulation of toxic parameters the flexibility to accept a variety of cargos without necessarily needing to be re-classified in a different subcategory, and therefore, be subject to a different set of effluent limitations. By establishing such a production cutoff, EPA believes that the toxic characteristics of the wastewater will not vary considerably from facilities that perform 80 to 100 percent of its operations within the confines of one subcategory. In this manner, EPA believes that a facility within one subcategory will be allowed the flexibility to clean transportation equipment that contained different types of cargos without discharging substantial quantities of toxic pollutants. EPA solicits comment on the hierarchy of applicability that EPA is proposing as the basis for subcategorization.

From the possible combinations of tank types and cargos last hauled, EPA proposes subcategorization of the TEC industry into 11 subcategories. The tank type classifications include: (1) tank trucks and intermodal tank containers (2) rail tank cars (3) inland tank barges and ocean/sea tankers (4) closed-top hopper trucks (5) closed-top hopper rail cars and (6) closed-top hopper barges. A description of each of these tank type classifications is presented in Appendix A of this notice. Containers defined as drums or Intermediate Bulk Containers (IBCs) are proposed not to be covered by this guideline.

The cargo type classifications used as a basis for subcategorization include: (1) petroleum; (2) food grade; (3) dry bulk; and (4) chemical. A description of the cargo type classifications is provided below.

Petroleum

Petroleum cargos include the products of the fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other refining processes. Petroleum cargos also include products obtained from the refining or processing of natural gas and coal. Specific examples of petroleum products include but are not limited to: asphalt; benzene; coal tar; crude oil; cutting oil; ethyl benzene; diesel fuel; fuel additives; fuel oils; gasoline; greases; heavy, medium, and light oils; hydraulic fluids, jet fuel; kerosene; liquid petroleum gases (LPG) including butane and propane; lubrication oils; mineral spirits; naphtha; olefin, paraffin, and other waxes; tall oil; tar; toluene; xylene; and waste oil.

Food Grade

''Food grade'' cargos include edible and non-edible food grade products such as corn syrup, sugar, juice, soybean oil, beverages, and animal and vegetable oils.

Dry Bulk

The dry bulk classification includes closed-top hoppers that transport dry bulk products such as fertilizers, grain, and coal.

Chemical

Chemical cargos are defined to include but are not limited to the following cargos: latex, rubber, plastics, plasticizers, resins, soaps, detergents, surfactants, agricultural chemicals and pesticides, hazardous waste, organic chemicals including: alcohols, aldehydes, formaldehydes, phenols, peroxides, organic salts, amines, amides, other nitrogen compounds, other aromatic compounds, aliphatic organic chemicals, glycols, glycerines, and organic polymers; refractory organic compounds including: ketones, nitriles, organo-metallic compounds containing chromium, cadmium, mercury, copper, zinc; and inorganic chemicals including: aluminum sulfate, ammonia, ammonium nitrate, ammonium sulfate, and bleach. In the development of this regulation, EPA has considered any cargo not specifically defined as food, petroleum, or dry bulk good as a ''chemical'' cargo.

Based on tank type and cargo type classifications described above, EPA is proposing to subcategorize the TEC industry into the following 11 subcategories. A detailed explanation of each of these subcategories is provided below:

Subcategory A: Truck/Chemical

Subcategory A would apply to TEC facilities that clean tank trucks and intermodal tank containers where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos.

Subcategory B: Rail/Chemical

Subcategory B would apply to TEC facilities that clean rail tank cars where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos.

Subcategory C: Barge/Chemical & Petroleum

Subcategory C would apply to TEC facilities that clean tank barges or

ocean/sea tankers where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical and/or petroleum cargos.

Subcategory D: Truck/Petroleum

Subcategory D would apply to TEC facilities that clean tank trucks and intermodal tank containers where 80 percent or more of the total tanks cleaned at that facility in an average year contained petroleum cargos, so long as that facility is not in Subcategory A: Truck/Chemical or Subcategory F: Truck/Food.

Subcategory E: Rail/Petroleum

Subcategory E would apply to TEC facilities that clean rail tank cars where 80 percent or more of the total tanks cleaned at that facility in an average year contained petroleum cargos, so long as that facility is not in Subcategoy B: Rail/Chemical or Subcategory G: Rail/Food.

Subcategory F: Truck/Food

Subcategory F would apply to TEC facilities that clean tank trucks and intermodal tank containers where 10 percent or more of the total tanks cleaned at that facility in an average year contained food grade cargos, so long as that facility does not clean 10 percent or more of tanks containing chemical cargos. If 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos, then that facility is in Subcategoy A: Truck/Chemical.

Subcategory G: Rail/Food

Subcategory G would apply to TEC facilities that clean rail tank cars where 10 percent or more of the total tanks cleaned at that facility in an average year contained food grade cargos, so long as that facility does not clean 10 percent or more of tanks containing chemical cargos. If 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos, then that facility is in Subcategoy B: Rail/Chemical.

Subcategory H: Barge/Food

Subcategory H would apply to TEC facilities that clean tank barges or ocean/sea tankers where 10 percent or more of the total tanks cleaned at that facility in an average year contained food grade cargos, so long as that facility does not clean 10 percent or more of tanks containing chemical cargos. If 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical and/or petroleum cargos, then that facility is in Subcategory C: Barge Chemical & Petroleum.

Subcategory I: Truck/Hopper

Subcategory I would apply to TEC facilities that clean closed-top hopper trucks which transport dry bulk commodities.

Subcategory J: Rail/Hopper

Subcategory J would apply to TEC facilities that clean closed-top hopper rail cars which transport dry bulk commodities.

Subcategory K: Barge/Hopper

Subcategory K would apply to TEC facilities that clean closed-top hopper barges which transport dry bulk commodities.

VII. Wastewater Generation and Characteristics

Wastewater generated by the industry includes water and steam used to clean the tank interiors, prerinse solutions, chemical cleaning solutions, final rinse solutions, tank exterior washing wastewater, boiler blowdown, tank hydrotesting wastewater, safety equipment cleaning rinsate, and TEC-contaminated storm water. Of the facilities that discharge TEC wastewater, the majority (97 percent) discharge their wastewater to publicly owned treatment works (POTWs). The majority of the barge facilities (77 percent) discharge directly to U.S. surface waters.

Primary sources of pollutants in TEC wastewater include heels and cleaning solutions. Heel is residual cargo remaining in a tank or container following unloading, delivery, or discharge of the transported cargo and is the primary source of pollutants in TEC wastewater. Water-soluble heels that are compatible with the facility's wastewater treatment system and the conditions of the facility's wastewater discharge permit are often combined with other wastewater for treatment and discharge at the facility. Incompatible heels are drained and segregated into drums or tanks for disposal or reuse by alternate means, which may include reuse onsite, return to consignee, sale to a reclamation facility, land filling, or incineration. However, even when the heel is drained, residual cargo adheres to the tank or container interior, and is removed by tank cleaning operations and ultimately discharged in TEC wastewater.

Pollutants contained in heels are dependent upon the constituents contained in the cargos transported. Based on responses to the Detailed Questionnaire, tank truck cleaning facilities reported cleaning at least 429 unique cargos, rail tank car cleaning facilities reported cleaning at least 159 unique cargos, and tank barge cleaning facilities reported cleaning at least 111 unique cargos.

Cleaning solutions are another primary source of pollutants in TEC wastewater. TEC facilities commonly use the following four types of chemical cleaning solutions: (1) acid solution; (2) caustic solution; (3) detergent solution; and (4) presolve solution. Acid solutions typically comprise hydrofluoric and/or phosphoric acid and water. Acid solutions are also used as metal brighteners on aluminum and stainless steel tank exteriors. Caustic solutions typically comprise sodium hydroxide and water. The most common components of detergent solutions are sodium metasilicate and phosphate-based surfactants. Some facilities use off-the-shelf brands of detergent solutions such as Tide®, Arm & Hammer®, and Pine Power®. Often, concentrated detergents (''boosters''), such as glycol ethers and esters, are added to acid and caustic solutions to improve their effectiveness. Presolve solutions usually consist of diesel fuel, kerosene, or other petroleum-based solvent. Other miscellaneous cleaning solutions used by the TEC industry include passivation agents (oxidation inhibitors), odor controllers such as citrus oils, and sanitizers.

Some TEC facilities commingle spent cleaning solutions with TEC wastewater, while other facilities dispose of spent cleaning solutions off site. However, even when spent cleaning solutions are not discharged with TEC wastewater, residual cleaning solution adheres to the tank or container interior and is removed during tank rinses and ultimately discharged in TEC wastewater.

TEC operations or control technologies that minimize the amount of heel remaining in the tank prior to starting TEC operations or that reduce the use or toxicity of chemical cleaning solutions significantly reduce the pollutant loading in TEC wastewater. EPA estimates, based on data collected during EPA's sampling program, that facilities implementing heel and cleaning solution pollution prevention practices generate one half to an order of magnitude less wastewater pollutant loadings than facilities that do not implement these practices.

EPA conducted 20 sampling episodes at 18 facilities representative of the variety of facilities in the TEC industry (2 facilities were sampled twice). As part of this sampling program, EPA routinely analyzed wastewater samples for conventional, priority toxic, and

nonconventional pollutants. Raw wastewater streams sampled typically comprised TEC wastewater commingled with tank exterior cleaning wastewater, TEC-contaminated storm water, tank hydrotesting wastewater, and other wastewater streams. Additional details concerning EPA's sampling program, including the types of facilities sampled, are provided in Section V.E.

EPA detected 330 of 478 pollutants analyzed for in TEC wastewaters. Ninety of the 126 priority toxic pollutants analyzed were detected. Detected pollutants vary by subcategory and include the conventional pollutants oil and grease (analyzed as hexane extractable materials (HEM)), 5-day biochemical oxygen demand (BOD_5), total suspended solids (TSS), and pH; certain priority toxic pollutants; and certain nonconventional pollutants.

In its analysis of the industry, EPA sampled one facility in the Truck/Petroleum Subcategory. This facility treated only final rinse wastewater on-site. Initial rinses and other TEC wastewaters were contract hauled for off-site treatment and were therefore not included in the sampling performed by EPA. There was no additional data provided by the industry on raw TEC wastewater characteristics. EPA therefore reviewed other sources of raw wastewater characterization data in order to determine whether data could be transferred from other sources to characterize TEC wastewater for the Truck/Petroleum and Rail/Petroleum Subcategories. One facility sampled in support of the Centralized Waste Treatment effluent guideline accepted only oily wastewater for treatment. The wastewater consisted of wastewater contaminated with lube oils and other petroleum products. Additionally, the sources of oily wastewater which comprised the sampled wastestream closely matched the types of commodities cleaned by the sampled TEC facility. Therefore, the sampling data obtained from the Centralized Waste Treatment Industry was used to characterize TEC wastewater for the Truck/Petroleum and Rail/Petroleum Subcategories in addition to the TEC sampled facility.

Listed below are pollutants identified in all TEC raw wastewater characterization samples collected and analyzed by EPA for each subcategory or subcategory grouping. These pollutants have been found in raw wastewater but have not necessarily been identified as pollutants of concern for the industry. See Section 6.0 of the Technical Development Document for a more comprehensive summary of the specific pollutants detected and the mean and range of pollutant concentrations by subcategory.

Truck/Chemical Subcategory

- Conventional pollutants: BOD_5, TSS, Oil and Grease, and pH;
- Priority toxic pollutants: methylene chloride, copper, nickel, and zinc; and
- Nonconventional pollutants: acetone, benzoic acid, aluminum, barium, boron, calcium, iron, magnesium, manganese, molybdenum, phosphorus, potassium, sodium, strontium, sulfur, titanium, octachlorodibenzo-p-dioxin, adsorbable organic halides (AOX), ammonia as nitrogen, chemical oxygen demand (COD), chloride, fluoride, nitrate/nitrite, surfactants (MBAS), total dissolved solids (TDS), total organic carbon (TOC), total phosphorus, and volatile residue.

Rail/Chemical Subcategory

- Conventional pollutants: BOD_5, TSS, Oil and Grease, and pH;
- Priority toxic pollutants: toluene, arsenic, chromium, copper, nickel, zinc, tetrachlorodibenzo-p-dioxin and tetrachlorodibenzofuran.
- Nonconventional pollutants: n-eicosane, n-octadecane, aluminum, barium, boron, calcium, cobalt, iron, magnesium, manganese, phosphorus, potassium, silicon, sodium, strontium, sulfur, titanium, AOX, ammonia as nitrogen, COD, chloride, fluoride, silica-gel hexane extractable material (SGT–HEM), MBAS, TDS, TOC, total phenols, total phosphorus, and volatile residue.

Barge/Chemical and Petroleum Subcategory

- Conventional pollutants: BOD_5, TSS, Oil and Grease, and pH;
- Priority toxic pollutants: benzene, ethylbenzene, toluene, naphthalene, copper, nickel, zinc, tetrachlorodibenzo-p-dioxin and tetrachlorodibenzofuran.
- Nonconventional pollutants: acetone, o-+ p-xylene, 2-methylnaphthalene, n-docosane, n-dodecane, n-eicosane, n-hexadecane, n-octadecane, n-tetradecane, styrene, malathion, parathion (ethyl), aluminum, barium, boron, calcium, hexavalent chromium, iron, magnesium, manganese, potassium, sodium, strontium, sulfur, AOX, ammonia as nitrogen, COD, chloride, fluoride, nitrate/nitrite, SGT–HEM, MBAS, TOC, total phenols, total phosphorus, and total sulfide.

Food Grade Subcategories

- Conventional pollutants: BOD_5, TSS, and pH;
- Priority toxic pollutants: none; and
- Nonconventional pollutants: aluminum, barium, calcium, europium, iron, magnesium, manganese, neodymium, niobium, silicon, sodium, strontium, ammonia as nitrogen, COD, chloride, fluoride, MBAS, TDS, TOC, total phenols, total phosphorus, total sulfide, and volatile residue.

Petroleum Subcategories

- Conventional pollutants: BOD_5, Oil and Grease, TSS, and pH;
- Priority toxic pollutants: bis(2-ethylhexyl)phthalate, and zinc; and
- Nonconventional pollutants: acetone, n-eicosane, n-octacosane, n-octadecane, n-tetradecane, aluminum, barium, boron, calcium, holmium, iron, magnesium, manganese, molybdenum, phosphorus, potassium, silicon, sodium, strontium, sulfur, tantalum, ammonia as nitrogen, COD, chloride, fluoride, TDS, TOC, and total phosphorus.

Hopper Subcategories

- Conventional pollutants: BOD5, TSS, and pH;
- Priority toxic pollutants: bis(2-ethylhexyl)phthalate, arsenic, beryllium, cadmium, chromium, copper, nickel, silver, and zinc; and
- Nonconventional pollutants: aluminum, calcium, iron, magnesium, phosphorus, potassium, sodium, sulfur, ammonia as nitrogen, COD, chloride, fluoride, TDS, TOC, and total phosphorus.

VIII. Development of Effluent Limitations Guidelines and Standards

A. Description of Available Technologies

There are three major approaches currently used by the TEC industry to improve effluent quality: (1) cleaning process technology changes and controls to prevent or reduce the generation of wastewater pollutants; (2) flow reduction technologies to increase pollutant concentrations and the efficiency of treatment system pollutant removal; and (3) end-of-pipe wastewater treatment technologies to remove pollutants from TEC wastewater prior to discharge. These approaches and specific available technologies within these approaches are described in the following subsections.

1. Pollution Prevention Controls

EPA has defined pollution prevention as source reduction and other practices that reduce or eliminate the formation of pollutants. Source reduction includes any practices that reduce the amount of any hazardous substance or pollutant entering any waste stream or otherwise released into the environment, or any practices that reduce the hazards to public health and the environment associated with the release of such

pollutants. The principal pollution prevention controls applicable to the TEC industry are the use of dedicated tanks, heel reduction techniques, and reduction in the amount or toxicity of chemical cleaning solutions.

a. Use of dedicated tanks. Tanks dedicated to hauling a single cargo (e.g., gasoline) do not require, or require less frequent, tank cleaning between loads. Use of dedicated tanks eliminates the generation of tank cleaning wastewater and associated pollutant loading.

b. Heel reduction. Heel (residual cargo remaining in tanks following unloading) is the primary source of pollutants in TEC wastewater. Heel reduction techniques include the following: (1) refusal to accept tanks with excess heel; (2) assessment of fees for excess heel; (3) use of steam in tank interiors to lower the viscosity of heels for improved draining; (4) manual use of squeegees to move heel toward valve openings; (5) cold or hot water prerinses to enhance heel removal; (6) heel recycle or reuse; and (7) heel disposal rather than commingling and discharging with TEC wastewater.

c. Reduction in the amount and toxicity of chemical cleaning solutions. Chemical cleaning solutions are the second major source of pollutants in TEC wastewater. Chemical cleaning solution reduction techniques include the following: (1) recirculation and reuse of solutions; (2) use of prerinses to extend cleaning solution effectiveness; (3) increased use of steam cleaning and other cleaning processes that do not include chemical cleaning solutions; (4) solution disposal rather than being commingled and discharged with TEC wastewater; and (5) substitution with less toxic cleaning solutions.

2. Flow Reduction Technologies

Flow reduction technologies applicable to the TEC industry reduce the amount of fresh water required for tank cleaning through cleaning process modifications and/or recycle and reuse of process wastewaters to TEC or other processes. Flow reduction technologies applicable to the TEC industry include the use of high-pressure/low-volume cleaning equipment, TEC water use monitoring, equipment monitoring programs, dry cleaning, cascading tank cleaning, and wastewater recycle and reuse.

a. High-pressure/low-volume cleaning equipment. High-pressure (up to 1,000 psi) delivery of water washes, cleaning solutions, and rinses can clean as efficiently as low-pressure delivery while requiring significantly less volume of water or cleaning solutions.

b. TEC water use monitoring. Careful monitoring of TEC water use can ensure that the minimum adequate amount of water is used to clean tank interiors. Visual inspection may be used to determine an appropriate duration and amount of water required for cleaning. Alternatively, cleaning personnel can use predetermined cleaning times and amounts of water to clean specific tank type and cargo type combinations based on experience.

c. Equipment monitoring program. Preventative maintenance and periodic inspection of cleaning equipment such as pumps, hoses, nozzles, and water and cleaning solution storage tanks can significantly reduce fresh water requirements by eliminating water waste.

d. Cleaning without use of water. Cleaning personnel may enter the tank to shovel or sweep dry-bulk cargos or mop or squeegee liquid cargos. Mechanical devices are also used to vibrate hoppers to improve heel removal. Depending on the effectiveness of these dry cleaning processes, the need for subsequent tank cleaning with water may be eliminated. At a minimum, these techniques will reduce the amount of water and cleaning solutions required to clean the tank interior.

e. Cascade tank cleaning. ''Cascade'' tank cleaning processes involve the use of fresh water for final tank rinses with recycle and reuse of final rinse wastewater in initial rinses. This technique uses water at least twice prior to discharge or disposal.

f. Wastewater recycle and reuse. Water recycle and reuse techniques reduce or eliminate the need for fresh process water. Wastewater streams most commonly recycled and reused in TEC processes include tank interior cleaning wastewater, hydrotesting wastewater, uncontaminated storm water, and non-contact cooling water. These water sources typically do not require extensive treatment prior to recycle and reuse. Tank interior cleaning wastewater generated by cleaning tanks used to transport petroleum products can be recycled and reused in TEC processes after treatment by oil/water separation and activated carbon treatment. Wastewater generated by cleaning tanks that last transported chemical products generally requires more extensive treatment prior to recycle and reuse in TEC processes.

3. End-of-Pipe Wastewater Treatment Technologies

End-of-pipe wastewater treatment includes physical, chemical, and biological processes that remove pollutants from TEC wastewater prior to discharge to a receiving stream or POTW. Typical end-of-pipe treatment currently used by the TEC industry includes pretreatment and primary treatment. Facilities that practice extensive water and wastewater recycle and reuse or that discharge TEC wastewater directly to surface waters may also operate biological and/or advanced treatment units. Use of treatment technologies by the TEC industry is presented as the percentage of direct or indirect discharging facilities that use the technologies.

a. Oil/water separation. Approximately 36 percent of TEC facilities use oil/water separation to remove oil and grease. The most common type of oil/water separator used by TEC facilities is an oil skimmer. Coalescing and corrugated plate separators are also used.

b. Gravity settling. Gravity settling or sedimentation removes suspended solids from TEC process wastewater. Approximately 57 percent of TEC facilities use gravity settling.

c. Equalization. Equalization provides wastewater retention time to homogenize wastewater to control fluctuations in flow and pollutant characteristics, reduce the size and cost of subsequent treatment units, and improve the efficiency of subsequent treatment units. Approximately 42 percent of TEC facilities use equalization.

d. pH adjustment. Many treatment technologies used by the TEC industry are sensitive to pH. For example, chemical precipitation requires a relatively high pH while biological treatment requires a neutral pH. In addition, pH adjustment may also be required to meet permit conditions for wastewater discharge. Approximately 44 percent of TEC facilities use pH adjustment.

e. Grit removal. Grit removal involves the use of a settling chamber to remove heavy, suspended material from wastewater. This is typically used at the headworks of a treatment system to remove larger particles which may damage pumps or treatment equipment. Approximately four percent of TEC facilities use grit removal.

f. Coagulation/Flocculation. Coagulation involves the addition of a ''coagulant,'' such as an electrolyte or polymer, to destabilize colloidal and fine suspended matter. Flocculation involves the agglomeration of destabilized particles into flocs for subsequent removal by gravity settling in a clarifier. Approximately 24 percent of TEC facilities use coagulation/flocculation.

g. Chemical precipitation/separation. Chemical precipitation removes dissolved pollutants from wastewater. Precipitation agents, such as polyaluminum chloride, ferric chloride, and lime, work by reacting with pollutant cations (e.g., metals) and some anions to convert them into an insoluble form for subsequent removal by gravity settling in a clarifier. The pH of the wastewater also affects how much pollutant mass is precipitated, as pollutants precipitate more efficiently at different pH ranges. Coagulation/flocculation may also be used to assist particle agglomeration and settling. Approximately six percent of TEC facilities use chemical precipitation/separation.

h. Clarification. Approximately 23 percent of TEC facilities use clarification as either a pre- or post-treatment step to remove settleable solids, free oil and grease, and other floating material. Primary clarifiers remove settleable solids from raw wastewater or wastewater treated by coagulation/flocculation; secondary clarification is used in activated sludge systems to remove biomass. Clarifiers consist of settling tanks commonly equipped with a sludge scraper mounted on the floor of the clarifier to rake sludge into a sump for removal to sludge handling equipment. The bottom of the clarifier may be sloped to facilitate sludge removal.

i. Filtration. Filtration removes solids from wastewater by passing the wastewater through a material that retains the solids on or within itself. A wide variety of filter types are used by the TEC industry including media filters (e.g., sand, gravel, charcoal), bag filters, and cartridge filters. Approximately 24 percent of TEC facilities use filtration technologies.

j. Sludge dewatering. Sludge dewatering reduces sludge volume by decreasing its water content, thereby substantially reducing sludge disposal costs. Sludge dewatering technologies used by TEC facilities include sludge drying beds, filter presses, rotary vacuum filters, and centrifuges. Approximately 28 percent of TEC facilities use sludge dewatering.

k. Dissolved air flotation. Dissolved air flotation devices introduce gas bubbles into wastewater which attach to suspended particles such as free and dispersed oil and grease, suspended solids, and some dissolved pollutants, causing them to float. Floating material is removed from the surface by rakes. Approximately 25 percent of TEC facilities use dissolved air flotation.

l. Biological oxidation. Biological oxidation involves the biological conversion of dissolved and colloidal organics into biomass, gases, and other end products. Activated sludge systems, consisting of an aeration basin, a secondary clarifier, and a sludge recycle line, are the most commonly used biological oxidation systems in the TEC industry. Aerated stabilization basins and anaerobic technologies are also used. Approximately nine percent of TEC facilities use biological oxidation.

m. Chemical oxidation. Chemical oxidation involves the addition of oxidants such as hydrogen peroxide to chemically oxidize toxic pollutants to form less toxic constituents. Approximately two percent of TEC facilities use chemical oxidation.

n. Activated carbon adsorption. Activated carbon removes pollutants from wastewater by physical and chemical forces that bind the constituents to the carbon surface. In general, pollutants with low water solubility, high molecular weight, and those containing certain chemical structures such as aromatic functional groups are most amenable to treatment by activated carbon adsorption. Less than one percent of TEC facilities use activated carbon adsorption.

o. Membrane filtration. Membrane filtration uses a pressure-driven, semipermeable membrane to separate suspended, colloidal, and dissolved solutes from wastewater. The size of pores in the membrane is selected based on the type of contaminant to be removed. Types of membrane filtration technologies used by the TEC industry include microfiltration, ultrafiltration, and reverse osmosis. A relatively large pore size is used to remove precipitates or suspended materials, whereas a relatively small pore size is used to remove inorganic salts or organic molecules. Less than one percent of TEC facilities use membrane filtration.

B. Technology Options Considered for Basis of Regulation

This section explains how EPA selected the effluent limitations and standards proposed today for each of the TEC subcategories proposed for regulation. To determine the technology basis and performance level for the proposed regulations, EPA developed a database consisting of daily influent and effluent data collected during EPA's wastewater sampling program. This database is used to support the BPT, BCT, BAT, NSPS, PSES, and PSNS effluent limitations and standards.

The effluent limitations and pretreatment standards EPA is proposing to establish today are based on well-designed, well-operated treatment systems. Below is a summary of the technology bases for the proposed effluent limitations and pretreatment standards in each subcategory. When final guidelines are promulgated, a facility is free to use any combination of wastewater treatment technologies and pollution prevention strategies at the facility so long as the numerical discharge limits are achieved.

In developing the regulatory options for proposing limitations and pretreatment standards for the TEC industry, EPA utilized technology bases from the wastewater treatment technologies and the pollution prevention technologies described in Section VIII.A.

EPA incorporated the utilization of two common practices into the technology options for all subcategories. The first is good heel removal and management practices which prevent pollutants from entering waste streams. These practices may reduce wastewater treatment system capital and annual costs due to reduced wastewater pollutant loadings and may provide a potential to recover/reuse valuable product. The majority of TEC facilities currently operate good heel removal and management practices. Because of the many benefits of these practices, and a demonstrated trend in the TEC industry to implement these practices, EPA believes that the TEC industry will have universally implemented good heel removal and management practices prior to implementation of TEC effluent guidelines.

The second common element is good water conservation practices which reduce the amount of wastewater generated. Good water conservation will improve wastewater treatment performance efficiency, reduce wastewater treatment system capital and annual costs, and reduce water usage and sewer fees. EPA considered good water conservation practices to be represented by the median tank interior cleaning wastewater volume discharged per tank cleaning (including commingled non-TEC wastewater streams not easily segregated) for each subcategory. This volume is referred to as the ''regulatory flow'' for each subcategory. For the 50 percent of facilities not currently meeting the regulatory flow, a flow reduction technology was costed. Flow reduction technologies include operator training, new spinners, and new cleaning systems.

In assessing the costs and loads for each regulatory option, EPA considered the treatment in place at each facility potentially affected by the regulation. In cases where the facility had treatment in place, that facility was ''given credit''

for each treatment unit currently in place that was a part of EPA's proposed treatment option. That facility was then assumed not to incur additional costs for the installation of that particular unit. Often, a facility had in place a treatment unit that was similar, but not identical to, the treatment option proposed. In these cases, EPA evaluated the existing treatment and gave credit for similar treatment systems.

The following subsections discuss the regulatory options that were considered for BPT, BCT, BAT, NSPS, PSES and PSNS. The Agency solicits comment on alternative treatment technologies not considered by EPA which may attain similar treatment removal efficiencies but that may be less expensive to install and operate.

1. BPT Technology Options Considered and Selected

a. Introduction. EPA today proposes BPT effluent limitations for the following subcategories for the TEC Point Source Category: Truck/Chemical, Rail/Chemical, Barge/Chemical & Petroleum, and Truck/Food, Rail/Food, and Barge/Food. The BPT effluent limitations proposed today would control identified conventional, priority, and non-conventional pollutants when discharged from TEC facilities. For further discussion on the basis for the limitations and technologies selected see the Technical Development Document.

As previously discussed, Section 304(b)(1)(A) of the CWA requires EPA to identify effluent reductions attainable through the application of ''best practicable control technology currently available for classes and categories of point sources.'' The Senate Report for the 1972 amendments to the CWA explained how EPA must establish BPT effluent reduction levels. Generally, EPA determines BPT effluent levels based upon the average of the best existing performances by plants of various sizes, ages, and unit processes within each industrial category or subcategory. In industrial categories where present practices are uniformly inadequate, however, EPA may determine that BPT requires higher levels of control than any currently in place if the technology to achieve those levels can be practicably applied. See *A Legislative History of the Federal Water Pollution Control Act Amendments of 1972,* U.S. Senate Committee of Public Works, Serial No. 93–1, January 1973, p. 1468.

In addition, CWA Section 304(b)(1)(B) requires a cost assessment for BPT limitations. In determining the BPT limits, EPA must consider the total cost of treatment technologies in relation to the effluent reduction benefits achieved. This inquiry does not limit EPA's broad discretion to adopt BPT limitations that are achievable with available technology *unless* the required additional reductions are ''wholly out of proportion to the costs of achieving such marginal level of reduction.'' See *Legislative History,* op. cit. p. 170. Moreover, the inquiry does not require the Agency to quantify benefits in monetary terms. See e.g. *American Iron and Steel Institute* v. *EPA,* 526 F. 2d 1027 (3rd Cir. 1975).

In balancing costs against the benefits of effluent reduction, EPA considers the volume and nature of expected discharges after application of BPT, the general environmental effects of pollutants, and the cost and economic impacts of the required level of pollution control. In developing guidelines, the Act does not require or permit consideration of water quality problems attributable to particular point sources, or water quality improvements in particular bodies of water. Therefore, EPA has not considered these factors in developing the limitations being proposed today. See *Weyerhaeuser Company* v. *Costle,* 590 F.2d 1011 (D.C. Cir. 1978).

EPA identified relatively few direct discharging facilities for most subcategories in the TEC industry as compared to the number of indirect discharging facilities. However, the Agency concluded that direct discharging facilities are similar to indirect discharging facilities in terms of types of tanks cleaned, types of commodities cleaned, water use, and wastewater characteristics. With respect to existing end-of-pipe wastewater treatment in place, direct discharging facilities typically operate biological treatment in addition to physical/chemical treatment technologies typically operated by indirect discharging facilities.

b. Truck/Chemical Subcategory. The Agency's engineering assessment of BPT consisted of the following options:

- Option I: Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment, and Sludge Dewatering. Option I demonstrated treatment efficiency of 57 percent or greater for all organic pollutants, 57 percent or greater for all metals, and 92 percent or greater for all conventional pollutants present in Truck/Chemical Subcategory wastewater. All existing Truck/Chemical Subcategory facilities received credit in EPA's costing model for equalization, coagulation/clarification, and biological treatment in-place, sixty-six percent received credit for existing sludge dewatering, and no facilities received credit for existing oil/water separation. (Oil/water separation was characterized at an indirect discharge Truck/Chemical Subcategory facility).
- Option II: Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Biological Treatment, Activated Carbon Adsorption, and Sludge Dewatering. Option II is equivalent to Option I with the addition of activated carbon adsorption for wastewater polishing following biological treatment. Option II removed 85 percent or greater of organics, 79 percent or greater of metals and 98 percent or greater of conventional pollutants present in Truck/Chemical Subcategory wastewater. All Truck/Chemical Subcategory facilities received credit for existing activated carbon adsorption treatment.

EPA is proposing to establish BPT effluent limitations based on Option II for the Truck/Chemical Subcategory. Agency data indicate that a treatment train consisting of physical/chemical treatment for the removal of metals and toxics, biological treatment for the removal of decomposable organic material and activated carbon adsorption for removal of residual organics and toxics represents the average of the best treatment in the industry. As noted above, all existing direct discharging facilities in this subcategory currently employ equalization, coagulation/clarification, biological treatment and activated adsorption. Although no direct discharging facilities were given credit in EPA's costing model for a coelescing plate oil/water separator, this technology is common and demonstrated practice in the industry to improve the overall efficiency of the treatment system. EPA has included the use of oil/water separation in its cost estimates to the industry in order to ensure that the biological system performs optimally.

EPA's decision to base BPT limitations on Option II treatment reflects primarily two factors: (1) the degree of effluent reductions attainable and (2) the total cost of the proposed treatment technologies in relation to the effluent reductions achieved.

No basis could be found for identifying different BPT limitations based on age, size, process or other engineering factors. Neither the age nor the size of the TEC facility will directly affect the treatability of the TEC wastewaters. For Truck/Chemical

facilities, the most pertinent factors for establishing the limitations are costs of treatment and the level of effluent reductions obtainable.

EPA estimates that implementation of Option II will cost $0.43 per pound of pollutants removed, and has found that cost to be reasonable. Finally, EPA also looked at the costs of all options to determine the economic impact that this proposal would have on the TEC industry. EPA anticipates that the economic impact, in terms of facility closures and employment losses, due to the controls established by BPT would be comparable to that estimated in EPA's assessment for indirect dischargers, which resulted in no facility closures or employment losses. EPA therefore projects that implementation of BPT Option II will result in no facility closures and no employment losses. Therefore, EPA has concluded that the total costs associated with the proposed BPT option are achievable and are reasonable as compared to the removals achieved by this option. Further discussion on the economic impact analysis can be found in Section X of today's notice.

c. Rail/Chemical Subcategory. The Agency's engineering assessment of BPT consisted of the following options:

- Option I: Flow Reduction, Oil/Water Separation, Equalization, Biological Treatment, and Sludge Dewatering. Option I removed 64 percent or greater of organic pollutants, 95 percent or greater of BOD_5, and 98 percent or greater of oil and grease. All Rail/Chemical Subcategory facilities received credit in EPA's costing model for existing biological treatment and sludge dewatering. No Rail/Chemical Subcategory facilities received credit for existing oil/water separation treatment. (Oil/water separation was characterized at a zero discharge Rail/Chemical Subcategory facility that recycled/reused 100 percent of TEC wastewater.)
- Option II: Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment and Sludge Dewatering. Option II is equivalent to Option I with the addition of Dissolved Air Flotation for the removal of oil and grease and the organic and metallic compounds contained in the oily fraction. Option II removed 81 percent or greater of organic pollutants, 84 percent or greater of metals, 99 percent or greater of oil and grease, and 92 percent or greater of TSS present in Rail/Chemical Subcategory wastewater. All Rail/Chemical Subcategory facilities received credit for existing equalization and pH adjustment. No Rail/Chemical Subcategory facilities received credit for existing dissolved air flotation. (Dissolved air flotation was characterized at a zero discharge Rail/Chemical Subcategory facility that recycled/reused 100 percent of TEC wastewater.)
- Option III: Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Biological Treatment, Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering. Option III is equivalent to Option II with the addition of an organo-clay/activated carbon adsorption system for wastewater polishing following biological treatment. Option III removed 84 percent or greater of organic pollutants, and 99 percent or greater of TSS present in Rail/Chemical Subcategory wastewater. No Rail/Chemical Subcategory facilities received credit in EPA's costing model for existing organo-clay/activated carbon adsorption treatment. (Organo-clay/activated carbon adsorption treatment was characterized at a zero discharge Rail/Chemical Subcategory facility that recycled/reused 100 percent of TEC wastewater.)

EPA is proposing to set BPT regulations for the Rail/Chemical Subcategory based on technology Option I. EPA's decision to base BPT limitations on Option I treatment reflects primarily two factors: (1) the degree of effluent reductions attainable and (2) the total cost of the proposed treatment technologies in relation to the effluent reductions achieved.

No basis could be found for identifying different BPT limitations based on age, size, process or other engineering factors. Neither the age nor the size of the TEC facility will directly affect the treatability of the TEC wastewaters. For Rail/Chemical facilities, the most pertinent factors for establishing the limitations are costs of treatment and the level of effluent reductions obtainable.

EPA has selected Option I based on the comparison of the three options in terms of total costs of achieving the effluent reductions, pounds of pollutant removals, economic impacts, and general environmental effects of the reduced pollutant discharges.

EPA estimates that implementation of Option I will cost $103 dollars per pound of pollutants removed. Although this projected cost per pound appears to be high, EPA has used a very conservative cost approach to project costs to the industry. The one facility in EPA's cost model is already projected to meet the proposed effluent limitations due to the low effluent levels achieved at this facility, which average 8 mg/l of BOD_5. However, because EPA's proposed treatment technology includes oil/water separation, the cost model has assumed that this facility will incur additional costs to install this treatment. Additionally, EPA has given no credit to any facility for current monitoring practices. Therefore, EPA has assumed that all monitoring requirements will result in an increase in costs to the industry. In reality, this facility will likely not need to install additional treatment to meet the proposed limits, and some of the monitoring costs assumed by EPA will not be an additional cost burden to the industry.

The technology proposed in Option I represents the average of the best performing facilities due to the prevalence of biological treatment and sludge dewatering. Although no direct discharging facilities were given credit in EPA's costing model for oil/water separation, this technology is common and demonstrated practice in the industry to improve the overall efficiency of the wastewater treatment system. EPA has included the use of oil/water separation in its cost estimates to the industry in order to ensure that the biological system performs optimally.

Finally, EPA also looked at the costs of all options to determine the economic impact that this proposal would have on the TEC industry. EPA expects the financial and economic profile of the direct dischargers to be comparable to that of the estimated 38 indirect dischargers. EPA anticipates that the economic impact, in terms of facility closures and employment losses, due to the additional controls at BPT Option II and III levels would be comparable to that estimated in EPA's assessment for indirect discharges, potentially leading to six facility closures and the associated loss of over 400 employees. The annual cost per facility for BPT Option I is projected to be $12,900 less than the technology evaluated for PSES which caused six facility closures. Therefore, EPA has concluded that the costs of BPT Option I are achievable and are reasonable as compared to the removals achieved by this option. Further discussion on the economic impact analysis can be found in Section X of today's notice.

d. Barge/Chemical & Petroleum Subcategory. The Agency's engineering assessment of BPT consisted of the following options:

- Option I: Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, and Sludge Dewatering. Option I removed 81 percent or greater

of organic pollutants, 82 percent or greater of metals and 96 percent or greater of conventional pollutants present in Barge/Chemical & Petroleum wastewater.

Approximately 79 percent of Barge/Chemical & Petroleum Subcategory facilities received credit in EPA's costing model for existing oil/water separation, 21 percent for dissolved air flotation, 74 percent for biological treatment and 42 percent for sludge dewatering. Although at least one Barge/Chemical & Petroleum facility is known to have filter press treatment in place, no facilities received credit for filter press treatment in EPA's cost and pollutant removal estimates. (Filter press treatment was characterized at a direct discharging facility).

- Option II: Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering. Option II is equivalent to Option I with the addition of reverse osmosis for wastewater polishing following biological treatment. Option II removed 99 percent or greater of organic pollutants, 88 percent or greater of metals and 99 percent or greater of conventional pollutants present in Barge/Chemical & Petroleum wastewater. Although at least one Barge/Chemical & Petroleum facility is known to have reverse osmosis treatment in place, no facilities received credit for existing reverse osmosis in EPA's cost and pollutant removal estimates. (Reverse osmosis treatment was characterized at a direct discharging Barge/Chemical & Petroleum Subcategory facility.)

EPA's decision to base BPT limitations on Option I treatment reflects primarily two factors: (1) the degree of effluent reductions attainable and (2) the total cost of the proposed treatment technologies in relation to the effluent reductions achieved.

EPA estimates that implementation of Option I will cost $0.35 per pound of pollutants removed, and has found that cost to be reasonable. Additionally, the Agency concluded that reverse osmosis is not commonly used in the industry, and therefore Option II does not represent the average of the best treatment. Finally, EPA also looked at the costs of all options to determine the economic impact that this proposal would have on the TEC industry. EPA's assessment showed that implementation of BPT is projected to result in no facility closures and no employment losses. Therefore, EPA has concluded that the total costs associated with the proposed BPT option are achievable and are reasonable as compared to the removals achieved by this option. Further discussion on the economic impact analysis can be found in Section X of today's notice.

e. Truck/Food, Rail/Food, and Barge/Food Subcategories. EPA considered the following BPT options for these subcategories:

- Option I—Flow Reduction and Oil/Water Separation.
- Option II—Flow Reduction, Oil/Water Separation, Equalization, Biological Treatment and Sludge Dewatering. Option II is equivalent to Option I with the addition of biological treatment for biological decomposition of organic constituents. (All facilities have biological treatment in place.)

Based on screener survey results, EPA estimates that there are 19 direct discharging facilities in the Truck/Food, Rail/Food, and Barge/Food Subcategories. However, EPA's survey of the TEC industry did not initially identify any direct discharging facilities through the Detailed Questionnaire sample population.

Because all types of facilities in the food subcategories accept similar types of cargos which generate similar types of wastewater in terms of treatability and toxicity, EPA has tentatively determined that the same BPT can be applied to all three (truck, rail and barge) food subcategories. The wastewater generated by the food subcategories contains high loadings of biodegradable organics, and few toxic pollutants. EPA conducted sampling at a direct discharging barge food-grade facility which EPA believes to be representative of the entire population.

Based on the data collected by EPA, raw wastewater contained significant levels of organic material in the raw wastewater, exhibiting an average BOD^5 concentration of 3500 mg/l. Therefore, EPA concluded that some form of biological treatment is necessary to reduce potential impacts to receiving waters from direct-discharging facilities and EPA anticipated that all direct discharging facilities in these subcategories would have some form of biological treatment in place. All existing facilities which responded to the screener survey questionnaire indicated that they did, in fact, have a biological treatment system in place. Therefore, EPA proposes to establish BPT based on Option II for the Truck/Food, Rail/Food, and Barge/Food Subcategories

EPA projects no additional pollutant removals and no additional costs to the industry based on EPA's selection of Option II because all facilities identified by EPA currently have the proposed technology in place.

f. Truck/Petroleum and Rail/Petroleum Subcategories. EPA did not develop or evaluate BPT Options for these subcategories for the following reasons: (1) All direct discharging facilities previously identified by the Agency are no longer in operation; (2) EPA is not aware of any new facilities that have recently begun operations; and (3) EPA currently believes permit writers can more appropriately control discharges from these facilities, if any, using best professional judgement.

g. Truck/hopper, Rail/hopper, and Barge/hopper Subcategories. EPA is not proposing to establish BPT regulations for any of the hopper subcategories. EPA concluded that hopper facilities discharge very few pounds of conventional or toxic pollutants. This is based on EPA sampling data, which found very few priority toxic pollutants at treatable levels in raw wastewater. Additionally, very little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. Therefore, nationally-applicable regulations are unnecessary at this time and direct dischargers will remain subject to limitations established on a case by case basis using best professional judgement.

2. BCT Technology Options Considered and Selected

In July 1986, EPA promulgated a methodology for establishing BCT effluent limitations. EPA evaluates the reasonableness of BCT candidate technologies—those that are technologically feasible—by applying a two-part cost test: (1) A POTW test; and (2) an industry cost-effectiveness test.

EPA first calculates the cost per pound of conventional pollutant removed by industrial dischargers in upgrading from BPT to a BCT candidate technology and then compares this cost to the cost per pound of conventional pollutants removed in upgrading POTWs from secondary treatment. The upgrade cost to industry must be less than the POTW benchmark of $0.25 per pound (in 1976 dollars).

In the industry cost-effectiveness test, the ratio of the incremental BPT to BCT cost divided by the BPT cost for the industry must be less than 1.29 (i.e., the cost increase must be less than 29 percent).

In today's proposal, EPA is proposing to establish BCT effluent limitations guidelines equivalent to the BPT guidelines for the conventional pollutants for the following subcategories: Truck/Chemical, Rail/Chemical, Barge/Chemical & Petroleum, Truck/Food, Rail/Food, and Barge/Food. In developing BCT limits, EPA

considered whether there are technologies that achieve greater removals of conventional pollutants than proposed for BPT, and whether those technologies are cost-reasonable according to the BCT Cost Test. In each subcategory, EPA identified no technologies that can achieve greater removals of conventional pollutants than proposed for BPT that are also cost-reasonable under the BCT Cost Test, and accordingly EPA proposes BCT effluent limitations equal to the proposed BPT effluent limitations guidelines for all subcategories. The detailed results of EPA's assessment of candidate technologies, and the results of the cost test, are presented in the Technical Development Document.

3. BAT Technology Options Considered and Selected

a. Truck/Chemical Subcategory. EPA has not identified any more stringent treatment technology option which it considered to represent BAT level of control applicable to Truck/Chemical facilities in this industry, and is therefore proposing that BAT be established equivalent to BPT for toxic and nonconventional pollutants. Further, EPA anticipates, based on the economic analysis for indirect dischargers, that implementing this level of control will result in no facility closures or employment losses. EPA found this Option to be economically achievable. Therefore, EPA is establishing BAT for the Truck/Chemical Subcategory equal to BPT for the priority and non-conventional pollutants.

b. Rail/Chemical Subcategory. EPA evaluated BPT Options II and III as a basis for establishing BAT more stringent than the BPT level of control being proposed today. EPA anticipates that the financial and economic profile of the direct dischargers in this subcategory is similar to that of the estimated 38 indirect dischargers. EPA anticipates that the economic impact due to the additional controls at Option II and III levels would be comparable to that estimated in EPA's assessment for indirect discharges, potentially leading to six facility closures and the associated loss of over 400 employees. Although these options result in improved pollutant reductions, the cost of implementing the level of control associated with Options II and III are disproportionately high, making these options no longer economically achievable for this Subcategory as a whole. Option I is projected to result in no facility closures and no associated employment losses. Additionally, Option I was demonstrated to achieve a high level of pollutant control, treating all priority pollutants to very low levels, often at or near the analytical minimum level.

Therefore, EPA is establishing BAT for the Rail/Chemical Subcategory equivalent to BPT for the priority and non-conventional pollutants.

c. Barge/Chemical & Petroleum Subcategory. EPA evaluated BPT Option II as a basis for establishing BAT more stringent than the BPT level of control being proposed today. Although BPT Option II results in the removal of an estimated additional 167 toxic pounds equivalent of priority and non-conventional pollutants over Option I (a one percent increase in removals achieved by BPT), no additional water quality benefits are projected to result. At both Option I and Option II level of control, EPA predicts that there will remain three water quality excursions nationally. This excursion is caused by a TEC facility modeled to discharge treated effluent to a very low flow stream, and is therefore not projected to be eliminated by either treatment option.

The Agency also concluded that reverse osmosis may not represent the best available treatment because cost-effective disposal methods for the concentrate (the wastewater containing the concentrated pollutants, compared to the permeate) may not be available for all facilities. Concentrate may account for 10 to 30 percent of the original wastewater flow, depending on the efficiency of the reverse osmosis system, and may result in significant disposal costs for large flow facilities.

Additionally, Option I was demonstrated to achieve a high level of pollutant control, treating all priority pollutants to very low levels, often at or near the analytical minimum level. For these reasons, EPA has determined that BPT Option I represents the best available technology. BPT Option I is also economically achievable. Therefore, EPA is proposing BAT for the Barge/Chemical & Petroleum Subcategory equivalent to BPT for the priority and non-conventional pollutants.

d. Truck/Food, Rail/Food, and Barge/Food Subcategories. EPA has not identified any more stringent treatment technology option which it considered to represent BAT level of control applicable to Food Subcategory facilities in this industry. Based on EPA sampling data, EPA found that food grade facilities discharge very few pounds of toxic pollutants. Therefore, EPA is proposing not to establish BAT for the Food Subcategories.

e. Truck/Petroleum and Rail/Petroleum Subcategories. EPA did not develop or evaluate BAT Options for these subcategories for the following reasons: (1) All direct discharging facilities previously identified by the Agency are no longer in operation; (2) EPA is not aware of any new facilities that have recently begun operations; and (3) EPA currently believes permit writers can more appropriately control discharges from these facilities, if any, using best professional judgement.

f. Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories. EPA is not proposing to establish BAT regulations for any of the hopper subcategories. EPA concluded that hopper facilities discharge very few pounds of toxic pollutants. EPA estimates that nine hopper facilities discharge 21 pound equivalents per year to surface waters, or about two pound equivalents per year per facility. The loadings calculations are based on EPA sampling data, which found very few priority toxic pollutants at treatable levels in raw wastewater. Additionally, very little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. Therefore, nationally-applicable regulations are unnecessary at this time and direct dischargers will remain subject to limitations established on a case by case basis using best professional judgement.

4. NSPS Technology Options Considered and Selected

a. Introduction. As previously noted, under Section 306 of the Act, new industrial direct dischargers must comply with standards which reflect the greatest degree of effluent reduction achievable through application of the best available demonstrated control technologies. Congress envisioned that new sources could meet tighter controls than existing sources because of the opportunity to incorporate the most efficient processes and treatment systems into plant design. Therefore, Congress directed EPA, in establishing NSPS, to consider the best demonstrated process changes, in-plant controls, operating methods and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

New direct discharging facilities have the opportunity to incorporate the best available demonstrated technologies, including process changes, in-plant controls, and end-of-pipe treatment technologies. The general approach followed by EPA for developing NSPS options was to evaluate the best demonstrated processes for control of priority toxic, nonconventional, and

conventional pollutants. Specifically, EPA evaluated the technologies used as the basis for BPT (BCT and BAT are equivalent to BPT). The Agency considered these options as a starting point when developing NSPS options because the technologies used to control pollutants at existing facilities are fully applicable to new facilities.

b. Truck/Chemical Subcategory. EPA has not identified any more stringent treatment technology option which it considered to represent NSPS level of control applicable to Truck/Chemical facilities in this industry. Further, EPA has made a finding of no barrier to entry based upon the establishment of this level of control for new sources. Therefore, EPA is proposing that NSPS for the Truck/Chemical Subcategory be established equivalent to BPT for conventional, priority, and nonconventional pollutants.

c. Rail/Chemical Subcategory. EPA evaluated BPT Options II and III as a basis for establishing NSPS more stringent than the BAT level of control being proposed today. The cost implications anticipated for new sources are not as severe as those projected for existing sources. By utilizing good heel removal and management practices which prevent pollutants from entering waste streams, and good water conservation practices in the design of new facilities, treatment unit size can be substantially reduced and treatment efficiencies improved. As a result, costs of achieving BPT Options II and III can be significantly reduced by new sources. BPT Options II and III technologies have been demonstrated at an existing zero discharge rail/chemical facility. EPA anticipates no barrier to entry for new sources employing these technologies at lower cost. Furthermore, based on an analysis of benefits for existing sources, significant environmental differences would be anticipated between Options I and II and Option III for new sources. Therefore, EPA is proposing to establish new source performance standards for the Rail/Chemical Subcategory based on BPT Option III. Option III consists of flow reduction, oil/water separation, equalization, dissolved air flotation (with flocculation and pH adjustment), biological treatment, organo-clay/activated carbon adsorption, and sludge dewatering.

d. Barge/Chemical & Petroleum Subcategory. EPA evaluated BPT Option II as a basis for establishing NSPS more stringent than the BAT level of control being proposed today. EPA rejected BPT Option II as a basis for NSPS for the same reasons this additional technology was rejected for BAT. Even though the cost implications for new sources are not as severe as those projected for existing sources, the cost and economic implications of BPT Option II do bear upon the determination that reverse osmosis technology as inappropriate for consideration as part of the best available technology for the control of pollutants for this subcategory.

Reverse osmosis was not considered to be the best available technology due to the small incremental removals achieved by this option, the lack of additional water quality benefits potentially achieved by this option, the potential issue of disposing the liquid concentrate created by treatment, and the high level of pollutant control achieved by the proposed BAT option.

Therefore, EPA is proposing that NSPS for the Barge/Chemical & Petroleum Subcategory be established equivalent to BPT for conventional, priority, and nonconventional pollutants.

e. Truck/Food, Rail/Food, and Barge/Food Subcategories. EPA has not identified any more stringent treatment technology option which it considered to represent NSPS level of control applicable to Food Subcategory facilities in this industry. Further, EPA has made a finding of no barrier to entry based upon the establishment of this level of control for new sources. Therefore, EPA is proposing that NSPS for the Food Subcategories be established equivalent to BPT for conventional pollutants.

f. Truck/Petroleum and Rail/Petroleum Subcategories. EPA did not develop or evaluate BAT Options for these subcategories for the following reasons: (1) all direct discharging facilities previously identified by the Agency are no longer in operation; (2) EPA is not aware of any new facilities that have recently begun operations; and (3) EPA currently believes permit writers can more appropriately control discharges from these facilities, if any, using best professional judgement. EPA is therefore proposing not to establish NSPS for the Truck/Petroleum and Rail/Petroleum Subcategories.

g. Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories EPA is not proposing to establish NSPS regulations for any of the hopper subcategories. EPA concluded that hopper facilities discharge very few pounds of toxic pollutants, and contain very few priority toxic pollutants at treatable levels in raw wastewater. Additionally, very little wastewater is generated from cleaning the interiors of hopper tanks due to the dry nature of bulk materials transported. Therefore, nationally-applicable regulations are unnecessary at this time and direct dischargers will remain subject to limitations established on a case by case basis using best professional judgement.

5. PSES Technology Options Considered and Selected

a. Introduction. Section 307(b) of the Act requires EPA to promulgate pretreatment standards to prevent pass-through of pollutants from POTWs to waters of the U.S. or to prevent pollutants from interfering with the operation of POTWs. After a thorough analysis of indirect discharging facilities in the EPA database, EPA has decided to propose PSES in several subcategories for the reasons explained in more detail below.

b. Pass-Through Analysis. Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by an industry pass through a POTW or interfere with the POTW . In determining whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by POTWs with the percentage of the pollutant removed by discharging facilities applying BAT. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by representative POTWs (those meeting secondary treatment requirements) is less than the percentage removed by facilities complying with BAT effluent limitations guidelines for that pollutant.

This approach to the definition of pass-through satisfies two competing objectives set by Congress: (1) that wastewater treatment performance for indirect dischargers be equivalent to that for direct dischargers and (2) that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers. Rather than compare the mass or concentration of pollutants discharged by the POTW with the mass or concentration of pollutants discharged by a BAT facility, EPA compares the percentage of the pollutants removed by the proposed treatment system with the POTW removal. EPA takes this approach because a comparison of mass or concentration of pollutants in a POTW effluent with pollutants in a BAT facility's effluent would not take into account the mass of pollutants discharged to the POTW from non-industrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations from the addition of large amounts of non-industrial wastewater.

For past effluent guidelines, a study of 50 representative POTWs was used for

the pass-through analysis. Because the data collected for evaluating POTW removals included influent levels of pollutants that were close to the detection limit, the POTW data were edited to eliminate low influent concentration levels. For analytes that included a combination of high and low influent concentrations, the data was edited to eliminate all influent values, and corresponding effluent values, less than 10 times the minimum level. For analytes where no influent concentrations were greater than 10 times the minimum level, all influent values less than five times the minimum level and the corresponding effluent values were eliminated. For analytes where no influent concentration was greater than five times the minimum level, the data was edited to eliminate all influent concentrations, and corresponding effluent values, less than 20 ug/l. These editing rules were used to allow for the possibility that low POTW removal simply reflected the low influent levels.

EPA then averaged the remaining influent data and the remaining effluent data from the 50 POTW database. The percent removals achieved for each pollutant was determined from these averaged influent and effluent levels. This percent removal was then compared to the percent removal for the BAT option treatment technology. Due to the large number of pollutants applicable for this industry, additional data from the Risk Reduction Engineering Laboratory (RREL) database was used to augment the POTW database for the pollutants for which the 50 POTW Study did not cover. For a more detailed description of the pass-through analysis, see the Technical Development Document.

c. Truck/Chemical Subcategory. In the Agency's engineering assessment of the best available technology for pretreatment of wastewaters from the Truck/Chemical Subcategory, EPA considered two options comprised of technologies currently used by facilities in the Truck/Chemical Subcategory.

- Option I—Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, and Sludge Dewatering. Option I removed 57 percent or greater of organic pollutants and 57 percent or greater of metals. Approximately 56 percent of Truck/Chemical Subcategory facilities received credit in EPA's costing model for existing equalization, nine percent for oil/water separation, 27 percent for coagulation/clarification, and 28 percent for sludge dewatering.
- Option II—Flow Reduction, Equalization, Oil/Water Separation, Chemical Oxidation, Neutralization, Coagulation, Clarification, Activated Carbon Adsorption, and Sludge Dewatering. Option II is equivalent to Option I with the addition of activated carbon adsorption for wastewater polishing following clarification. Option II removed 80 percent or greater of organics and 79 percent of metals. No Truck/Chemical Subcategory facilities received credit for existing activated carbon adsorption treatment. (Activated carbon adsorption treatment was characterized at two indirect discharging Truck/Chemical Subcategory facilities that were not selected to receive a detailed questionnaire.)

EPA is proposing to establish pretreatment standards based on Option II based on the additional removals achieved by this option. EPA has determined that Option II is economically achievable and results in no facility closures or projected employment losses. EPA notes that Option II removes 22,000 pound equivalents more than Option I. Additionally, the cost per pound equivalent removed is $114, which is within the range of other effluent guidelines promulgated by EPA.

EPA conducted a pass-through analysis on the pollutants proposed to be regulated under BPT and BAT for Truck/Chemical facilities to determine if the Agency should establish pretreatment standards for any pollutant. (The pass-through analysis is not applicable to conventional parameters such as BOD_5 and TSS.) Several pollutants were determined to pass-through a POTW and are therefore proposed for PSES regulation in the Truck/Chemical Subcategory.

d. Rail/Chemical Subcategory. In the Agency's engineering assessment of the best available technology for pretreatment of wastewaters from the Rail/Chemical Subcategory, EPA considered three options comprised of technologies currently used by facilities in the Rail/Chemical Subcategory.

- Option I—Flow Reduction, Oil/Water Separation. Approximately 16 percent of Rail/Chemical Subcategory facilities received credit in EPA's costing model for existing oil/water separation.
- Option II—Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), and Sludge Dewatering. Approximately 61 percent of Rail/Chemical Subcategory facilities received credit in EPA's costing model for existing equalization, 15 percent for dissolved air flotation, 30 percent for pH adjustment, and 17 percent for sludge dewatering.
- Option III—Flow Reduction, Oil/Water Separation, Equalization, Dissolved Air Flotation (with Flocculation and pH Adjustment), Organo-Clay/Activated Carbon Adsorption, and Sludge Dewatering. Option III is equivalent to Option II with the addition of an organo-clay/activated carbon adsorption system for wastewater polishing following the dissolved air flotation unit. No Rail/Chemical Subcategory facilities received credit for existing organo-clay/activated carbon adsorption treatment. (Organo-clay/activated carbon adsorption treatment was characterized at a zero discharge Rail/Chemical Subcategory facility that recycled/reused 100 percent of TEC wastewater.)

Option I removed entrained oil and grease with incidental removal of 61 percent or greater of organic pollutants, Option II removed 72 percent or greater of organic pollutants and 84 percent of metals, and Option III removed 84 percent or greater of organic pollutants.

EPA is proposing to establish pretreatment standards for the Rail/Chemical Subcategory based on Option I. EPA estimates that this option does not result in any facility closures or employment losses to the industry. Option II, however, was projected to result in six facility closures and is not economically achievable.

The Small Business Advocacy Review Panel commented extensively on the difference in the proposed treatment options for indirect dischargers in the truck chemical and rail chemical subcategories and on the related costs and pollutant removals. Based on current data, the proposed option for the Truck/Chemical Subcategory is estimated to remove about 49 percent of toxic loading, at an average cost of about $70,000 per facility, while the proposed option for the Rail/Chemical Subcategory is estimated to remove about 59 percent of toxic loadings, at an average cost of $33,000 per facility. The panel recognized that a direct comparison of the costs and removals between the two types of facilities may not be appropriate, because facilities in the truck chemical subcategory may discharge a different mix of pollutants. Nonetheless, the Panel recommended that EPA give serious consideration to proposing treatment technology for the truck chemical subcategory closer to that proposed for the rail chemical subcategory. After serious consideration of the record, the Agency continues to believe that it is appropriate to propose the more stringent technology for

indirect dischargers in the truck chemical subcategory at this time.

Intuitively, it is reasonable to assume that the characteristics and treatability of raw wastewater generated from the truck and rail sectors will be similar because similar types of commodities are generally transported by tank trucks and rail cars. However, wastewater volumes per tank are much larger for rail cars than for tank trucks (approximately 605 gallons compared to 2,091 gallons). This difference in wastewater flow volumes has a direct impact on the costs that must be incurred to install and maintain wastewater treatment due to the larger treatment system necessary.

The difference in treatment technology selected for the rail and truck subcategories is primarily due to the economic characteristics of the rail facilities as compared to the chemical facilities. EPA's economic assessment of the industry found that there was a significant difference in the economic characteristics of the two subcategories. This resulted in the preliminary conclusion that the Rail/Chemical facilities were not able to absorb the cost of installing high levels of treatment without incurring significant economic impacts. The economic impacts associated with this option is described in Section X of this notice.

Due to time constraints, the Agency has not had time to conduct an analysis of the cost and effectiveness of applying flow reduction and oil/water separation only to indirect dischargers in the truck chemical subcategory. However, the Agency intends to conduct such an analysis prior to promulgating the final rule. If it turns out that this technology is nearly as effective at removing toxic pollutants for facilities in the truck chemical subcategory as the currently proposed technology but at considerably lower cost, the Agency will consider basing the limits in the final rule on the alternate technology, or some technology closer to it. The Agency requests comment on this issue, as well as any data relating to the effectiveness of flow reduction and oil/water separation only for indirect dischargers in the truck chemical industry.

EPA conducted a pass-through analysis on the pollutants proposed to be regulated under BPT and BAT for Rail/Chemical facilities to determine if the Agency should establish pretreatment standards for any pollutant. (The pass-through analysis is not applicable to conventional parameters such as BOD5 and TSS.) Several pollutants were determined to pass-through a POTW and are therefore proposed for PSES regulation in the Rail/Chemical Subcategory.

e. Barge/Chemical & Petroleum Subcategory. In the Agency's survey of the industry, EPA identified only one facility discharging to a POTW in this subcategory. Therefore, EPA does not propose to establish PSES limitations for the Barge/Chemical & Petroleum Subcategory. EPA did, however, evaluate technologies for PSNS, as described in section VIII.B.6

f. Truck/Food, Rail/Food, and Barge/Food Subcategories. In the Agency's engineering assessment of pretreatment of wastewaters for the Truck/Food, Rail/Food, and Barge/Food Subcategories, EPA considered the types and concentrations of pollutants found in raw wastewaters in this subcategory. As expected, food grade facilities did not discharge significant quantities of toxic pollutants to POTWs. In addition, conventional pollutants present in the wastewater were found at concentrations that are amenable to treatment at a POTW. As a result, EPA is proposing not to establish pretreatment standards for any of the Food Subcategories.

g. Truck/Petroleum and Rail/Petroleum Subcategories. In the Agency's engineering assessment of the best available technology for pretreatment of wastewaters from the Truck/Petroleum and Rail/Petroleum Subcategories, EPA considered two options comprised of technologies currently used by facilities in these subcategories.

- Option I—Flow Reduction, Equalization, Oil/Water Separation, and Chemical Precipitation.
- Option II—Flow Reduction, Equalization, Oil/Water Separation, and Activated Carbon Adsorption Followed by Total Wastewater Recycle/Reuse.

Approximately 47 percent of Truck/Petroleum Subcategory facilities and 100 percent of Rail/Petroleum Subcategory facilities received credit in EPA's costing model for existing oil/water separation. No Truck/Petroleum Subcategory or Rail/Petroleum Subcategory facilities received credit for existing equalization or activated carbon adsorption. Total recycle/reuse of TEC wastewater following treatment using activated carbon is practiced by an estimated seven petroleum subcategory facilities. (An additional estimated 22 petroleum facilities practice 100 percent recycle/reuse of TEC wastewater following treatment by technologies different than Option II.)

Due to the similarity of cargos cleaned at Rail/Petroleum and Truck/Petroleum facilities, EPA considered wastewater from Truck/Petroleum facilities to be similar to that from Rail/Petroleum facilities. In evaluating these subcatogories for potential regulation, EPA conducted wastewater characterization sampling at one Truck/Petroleum facility and combined this data with data transferred from the CWT effluent guideline to evaluate wastewater characteristics for the subcategory, as described in section VII of this notice.

EPA estimates that there are 38 facilities in the Truck/Petroleum and Rail/Petroleum subcategories. EPA estimates that these facilities discharge a total of 28 pound equivalents to the nation's waterways, or less than one pound equivalent per facility. Additionally, EPA estimates that the total cost to the industry to implement PSES would be greater than $600,000 annually. The estimated costs to control the discharge of these small amounts of pound equivalents were not considered to be reasonable. Based on this analysis, EPA preliminarily concluded that there is no need to develop nationally applicable regulations for these subcategories due to the low levels of pollutants discharged by facilities in this subcategory.

Based on these factors, EPA proposes not to establish pretreatment standards for the Truck/Petroleum or Rail/Petroleum Subcategories. EPA recognizes that limited data were collected which characterizes the pollutants present in wastewater from these facilities. As a result, the Agency solicits data which can either substantiate or refute its tentative conclusions regarding raw wastewater from Truck/Petroleum and Rail/Petroleum Subcategories, and also any data which characterizes pollutants present in wastewaters from these facilities.

h. Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories. In the Agency's engineering assessment of the best available technology for pretreatment of wastewaters from the Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories, EPA considered one option comprised of technologies currently used by facilities in these subcategories.

- Option I—Flow Reduction and Gravity Separation. EPA selected these technologies as Option I because they remove 69 percent or greater of metals present in Truck/Hopper Subcategory, Rail/Hopper Subcategory and Barge/Hopper Subcategory wastewaters.

Approximately 84 percent of Truck Hopper Subcategory facilities, 100 percent of Rail Hopper Subcategory facilities, and 100 percent of Barge

Hopper Subcategory facilities received credit for existing gravity separation.

EPA conducted wastewater characterization sampling at one Barge/Hopper facility. The Agency did not conduct sampling at any Rail/Hopper or Truck/Hopper facilities. The Agency believes that wastewater from all Hopper facilities are similar because the same types of cargos are hauled by each of the three segments.

EPA estimates that there are 42 indirect discharging hopper facilities. EPA estimates that these facilities discharge a total of 3.5 pound equivalents to the nation's waterways, or less than one pound equivalent per facility. Additionally, EPA estimates that the total cost to the industry to implement PSES would be greater than $350,000 annually. The estimated costs to control the discharge of these small amounts of pound equivalents were not considered to be reasonable.

EPA is not proposing to establish BAT limits for any priority pollutant in the hopper subcategories. EPA did, however, look at the levels of pollutants in raw wastewaters and concluded that none were present at levels that are expected to cause inhibition of the receiving POTW.

Based on these factors, EPA proposes not to establish pretreatment standards for the Truck/Hopper, Rail/Hopper, or Barge/Hopper Subcategories. EPA recognizes that limited data were collected which characterizes the pollutants present in wastewater from these facilities. As a result, the Agency solicits data which can either substantiate or refute its tentative conclusions regarding raw wastewater from hopper facilities, and also any data which characterizes pollutants present in wastewaters from these facilities.

6. PSNS Technology Options Considered and Selected

a. Introduction. Section 307 of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS). New indirect discharging facilities, like new direct discharging facilities, have the opportunity to incorporate the best available demonstrated technologies including: process changes, in-facility controls, and end-of-pipe treatment technologies.

The general approach followed by EPA for developing PSNS options was to evaluate the best demonstrated processes for control of priority toxic and nonconventional pollutants. Specifically, EPA evaluated the technologies used as the basis for PSES. The Agency considered the PSES options as a starting point when developing PSNS options because the technologies used to control pollutants at existing facilities are fully applicable to new facilities. With respect to good heel removal and management practices, water conservation, and end-of-pipe wastewater treatment technologies, EPA has not identified any technologies or combinations of technologies that are demonstrated for new sources that are different from those used as the basis for the PSES options. Therefore, EPA has analyzed the same set of control technologies in selecting PSNS as were analyzed for PSES.

b. Truck/Chemical Subcategory. In today's rule, EPA proposes to establish pretreatment standards for new sources in the Truck/Chemical Subcategory equivalent to the PSES standards. In developing PSNS limits, EPA considered whether there are technologies that achieve greater removals than proposed for PSES which would be appropriate for PSNS. In this subcategory, EPA identified no technology that can achieve greater removals than PSES. Therefore, EPA is proposing pretreatment standards for those pollutants which the Agency has determined to pass through a POTW equal to PSES.

c. Rail/Chemical Subcategory. EPA evaluated PSES Options II and III as more stringent levels of control that may be appropriate for new indirect sources. The cost implications anticipated for new sources are not as severe as those projected for existing sources. By utilizing good heel removal and management practices which prevent pollutants from entering waste streams, and good water conservation practices in the design of new facilities, treatment unit size can be substantially reduced and treatment efficiencies improved. As a result, costs of achieving PSES Option II and III can be significantly reduced at new facilities. All of the technologies considered have been demonstrated at an existing zero discharge rail/chemical facility. EPA anticipates no barrier to entry for new sources employing these technologies at lower cost.

Therefore, EPA is proposing PSNS for those pollutants which the Agency has determined to pass through a POTW based on PSES Option III. EPA is soliciting comment on whether or not it is appropriate to establish PSNS based on a more stringent regulatory control option than PSES.

d. Barge/Chemical & Petroleum Subcategory. Although the Agency is not proposing to establish PSES for the Barge/Chemical & Petroleum Subcategory, EPA did evaluate best available technologies for PSNS.

- Option I—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, and In-Line Filter Press. All Barge/Chemical & Petroleum Subcategory facilities received credit in EPA's costing model for existing oil/water separation and dissolved air flotation. No Barge/Chemical & Petroleum Subcategory facilities received credit for existing in-line filter press treatment. (In-line filter press treatment was characterized at a direct discharging Barge/Chemical & Petroleum Subcategory facility.)
- Option II—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, In-Line Filter Press, Biological Treatment, and Sludge Dewatering. Option II is equivalent to Option I with the addition of biological treatment for biological decomposition of organic constituents. No Barge/Chemical & Petroleum Subcategory facilities received credit for existing biological treatment or sludge dewatering. (Biological treatment was characterized at two direct discharging Barge/Chemical & Petroleum Subcategory facilities.)
- Option III—Flow Reduction, Oil/Water Separation, Dissolved Air Flotation, In-Line Filter Press, Biological Treatment, Reverse Osmosis, and Sludge Dewatering. Option III is equivalent to Option II with the addition of reverse osmosis for wastewater polishing following biological treatment. No Barge/Chemical & Petroleum Subcategory facilities received credit for existing reverse osmosis treatment. (Reverse osmosis treatment was characterized at a direct discharging Barge/Chemical & Petroleum Subcategory facility.)

Option I removed 55 percent or greater of organic pollutants and 61 percent or greater of metals, Option II removed 82 percent or greater of organic pollutants and 82 percent or greater of metals, and Option III removed 99 percent or greater of organic pollutants and 89 percent or greater of metals present in Barge/Chemical & Petroleum wastewater.

EPA is not proposing to establish PSNS based on Option III because reverse osmosis was not considered to be the best demonstrated technology due to the small incremental removals achieved by this option, the lack of additional water quality benefits potentially achieved by this option, the potential issue of disposing the liquid concentrate created by treatment, and the high level of pollutant control achieved by the proposed BAT option.

EPA is proposing to establish PSNS based on Option II because of the removals achieved through this option.

The raw wastewater in this subcategory contains significant amounts of decomposable organic materials. These materials may not be treated as efficiently as the proposed technology option in a conventional POTW because a POTW may not be acclimated to this particular wastewater stream. In this instance, pretreatment based on biological treatment may be appropriate because the pollutant parameters that pass through, or which may be present at levels that cause interference, will receive additional treatment not achieved by the POTW. While EPA considers this to be the best treatment available that does not impose a significant barrier to entry, EPA is soliciting comment on the technology selected as the basis for regulation. Several pollutants were determined to pass-through a POTW and are therefore proposed for PSNS regulation in the Barge/Chemical & Petroleum Subcategory.

EPA has also considered establishing PSNS based on Option I. EPA believes that organic loadings in raw wastewater at barge chemical facilities may be present at levels which are amenable to biological treatment at POTW. However, EPA may not have sufficient data to support this assumption because EPA identified only one barge chemical facility currently discharging to a POTW. EPA solicits comments and data which would support or refute the assumption that a POTW may accept effluent, without causing pass-through or interference, treated by Option I that has not been treated biologically, as is proposed in Option II.

e. Truck/Food, Rail/Food, and Barge/Food Subcategories. EPA has not identified any more stringent treatment technology option which it considered to represent PSNS level of control applicable to Food Subcategory facilities in this industry. In addition, conventional pollutants present in the wastewater were found at concentrations that are amenable to treatment at a POTW. As a result, EPA is proposing not to establish PSNS for any of the Food Subcategories.

f. Truck/Petroleum and Rail/Petroleum Subcategories. Based on the PSES analysis, EPA preliminarily concluded that there is no need to develop nationally applicable regulations for these subcategories due to the low levels of pollutants discharged by facilities in this subcategory.

EPA proposes not to establish PSNS for the Truck/Petroleum or Rail/Petroleum Subcategories.

g. Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories. Based on the PSES analysis, EPA preliminarily concluded that there is no need to develop nationally applicable regulations for these subcategories due to the low levels of pollutants discharged by facilities in this subcategory.

EPA proposes not to establish PSNS for the Truck/Hopper, Rail/Hopper, and Barge/Hopper Subcategories.

C. Development of Effluent Limitations

EPA based the proposed effluent limitations and standards in today's notice on widely-recognized statistical procedures for calculating long-term averages and variability factors. The following presents a summary of the statistical methodology used in the calculation of effluent limitations.

Effluent limitations for each subcategory are based on a combination of subcategory-specific regulatory flows, long-term average effluent values, and variability factors that account for variation in day-to-day treatment performance within a treatment plant. The long-term averages are average effluent concentrations that have been achieved by well-operated treatment systems using the processes described in the above section (Technology Options Considered for Basis of Regulation). The variability factors are values that represent the ratio of a large value that would be expected to occur only rarely to the long-term average. The purpose of the variability factor is to allow for normal variation in effluent concentrations. A facility that designs and operates its treatment system to achieve a long-term average on a consistent basis should be able to comply with the daily and monthly limitations in the course of normal operations.

The variability factors and long term averages were developed from a data base composed of individual measurements on treated effluent based on EPA sampling data. EPA sampling data reflects the performance of a system over a three to five day period, although not necessarily over consecutive days.

The long-term average concentration of a pollutant for a treatment system was calculated based on either an arithmetic mean or the expected value of the distribution of the samples, depending on the number of total samples and the number of detected samples for that pollutant at that facility. A delta-lognormal distributional assumption was used for all subcategories except the Truck/Chemical subcategory where the arithmetic mean was used. The pollutant long-term average concentration for a treatment technology was the median of the long-term averages from the sampled treatment systems within the subcategory using the proposed treatment technology.

EPA calculated variability factors by fitting a statistical distribution to the sampling data. The distribution was based on an assumption that the furthest excursion from the long term average (LTA) that a well operated plant using the proposed technology option could be expected to make on a daily basis was a point below which 99 percent of the data for that facility falls, under the assumed distribution. The daily variability factor for each pollutant at each facility is the ratio of the estimated 99th percentile of the distribution of the daily pollutant concentration values divided by the expected value of the distribution of the daily values. The pollutant variability factor for a treatment technology was the mean of the pollutant variability factors from the facilities with that technology.

There were several instances where variability factors could not be calculated directly from the TEC database because there were not at least two effluent values measured above the minimum detection level for a specific pollutant. In these cases, the sample size of the data is too small to allow distributional assumptions to be made. Therefore, in order to assume a variability factor for a pollutant, the Agency transferred variability factors from other pollutants that exhibit similar treatability characteristics within the treatment system.

In order to do this, pollutants were grouped on the basis of their chemical structure and published data on relative treatability. The median pollutant variability factor for all pollutants within a group at that sampling episode was used to create a group-level variability factor. When group-level variability factors were not able to be calculated, groups that were similar were collected into analytical method fractions and the median group-level variability factor was calculated to create a fraction-level variability factor. Group-level variability factors were used when available, and fraction-level variability factors were used if group-level variability factors could not be calculated. For the sampling episodes in the Truck/Chemical Subcategory, there were not enough data to calculate variability factors at any level and therefore variability factors were transferred from similar treatment technologies sampled in the Rail/Chemical Subcategory.

Limitations were based on actual concentrations of pollutants measured in wastewaters treated by the proposed

technologies where such data were available. Actual measured value data was available for pollutant parameters in all subcategories with the exception of pollutants regulated for direct dischargers in the Truck/Chemical and Rail/Chemical Subcategories. Due to the small number of direct discharging facilities identified by EPA, all of EPA's sampling was conducted at indirect discharging facilities in these subcategories. In the case of BPT regulation for conventional, priority, and non-conventional pollutants, EPA concluded that establishing limits based on indirect discharging treatment systems was not appropriate because indirect discharging treatment systems are generally not operated for optimal control of pollutants which are amenable to treatment in a POTW. In other words, treatment systems at indirect discharging facilities generally do not require biological treatment to control organic pollutants because a POTW will control these pollutants. Therefore, in establishing limits for direct discharging facilities, EPA is proposing to establish BPT limitations based on the treatment performance demonstrated during the sampling of two direct discharging Barge/Chemical & Petroleum facilities that utilized biological treatment systems.

For this industry, EPA is proposing to establish mass-based rather than concentration based limits. The limits are specified as grams per tank cleaned. EPA envisions that permit writers would use these limits, in combination with data on annual number of tanks cleaned and annual facility wastewater flow, to calculate facility-specific concentration based limits for wastewater flows leaving the treatment plant, and then incorporate these limits into the permit. EPA is proposing this approach because it is concerned that if it proposed concentration based limits directly, facilities might be able to comply with these limits be increasing their water usage rather than installing and properly operating appropriate treatment, thereby diluting rather than removing pollutants of concern. EPA is soliciting comment on the appropriateness of this approach and the burden on the permitting and pretreatment authorities. Based on comments received, EPA may decide to convert the mass based limits in the proposed regulation to concentration based limits for the final rule.

The daily maximum limitation is calculated as the product of the pollutant long-term average concentration, the subcategory-specific regulatory flow, and the variability factor. The monthly maximum limitation is also calculated as the product of the pollutant long-term average, the subcategory-specific regulatory flow, and the variability factor, but the variability factor is based on the 95 percentile of the distribution of daily pollutant concentrations instead of the 99th percentile.

By accounting for these reasonable excursions above the LTA, EPA's use of variability factors results in standards that are generally well above the actual LTAs. Thus if a facility operates its treatment system to meet the relevant LTA, EPA expects the plant to be able to meet the standards. Variability factors assure that normal fluctuations in a facility's treatment are accounted for in the limitations.

The proposed limitations, as presented in today's notice, are provided as daily maximums and monthly averages for conventional pollutants. Monitoring was assumed to occur four times per month for conventional pollutants. Monitoring was assumed to occur once per month for all priority and nonconventional pollutants. This has the result that the daily maximums and monthly averages for priority and nonconventional pollutants are the same.

Although the monitoring frequency necessary for a facility to demonstrate compliance is determined by the local permitting authority, EPA must assume a monitoring frequency in order to assess costs and to determine variability of the treatment system.

Monitoring four times per month for conventional and classical pollutants is proposed to ensure that facility TEC processes and wastewater treatment systems are consistently and continuously operated to achieve the associated pollutant long term averages. Monitoring once per month for toxic pollutants is proposed to provide economic relief to regulated facilities while ensuring that facility TEC processes and wastewater treatment systems are designed and operated to control the discharge of toxic pollutants.

EPA is proposing to establish effluent limitations for existing facilities and new sources discharging wastewater directly to surface waters in the following subcategories: Truck/Chemical, Rail/Chemical, Barge/Chemical & Petroleum, Truck/Food, Rail/Food and Barge/Food Subcategories.

EPA is proposing to establish BPT, BCT, BAT and NSPS limitations for the Truck/Chemical Subcategory. EPA is proposing limitations for BOD_5 , TSS, Oil and Grease, Chromium, Zinc, COD, Bis (2-ethylhexyl) pthalate, di-N-octyl phthalate, N-Dodecane, N-Hexadecane, Styrene, and 1,2-dichlorobenzene. For the Rail/Chemical Subcategory, EPA is proposing to establish BPT, BCT, BAT and NSPS limitations. EPA is proposing to regulate BOD_5, TSS, Oil and Grease, COD, N-Dodecane, N-Hexadecane, N-Tetradecane, Anthracene, Pyrene, Fluoranthene, and Phenanthrene. For the Barge/Chemical & Petroleum Subcategory, EPA is proposing to establish BPT, BCT, BAT and NSPS limitations. EPA is proposing to regulate BOD_5, TSS, Oil and Grease, COD, Cadmium, Chromium, Copper, Lead, Nickel, Zinc, 1-Methylphenanthrene, Bis (2-ethylhexyl) Phthalate, Di-N-Octyl Phthalate, N-Decane, N-Docesane, N-Dodecane, N-Eicosane, N-Octadecane, N-Tetracosane, N-Tetradecane, P-Cymene, and Pyrene.

Additionally, EPA is proposing to establish BPT, BCT, and NSPS limitations for the Truck/Food, Rail/Food, and Barge/Food Subcategories for BOD_5, TSS, Oil and Grease.

The analytical method for Oil and Grease and Total Petroleum Hydrocarbons (TPH) is currently being revised to allow for the use of normal hexane in place of freon 113, a chlorofluorocarbon (CFC). Method 1664 (Hexane Extractable Material) will replace the current Oil and Grease Method 413.1 found in 40 CFR 136. In anticipation of promulgation of method 1664, data collected by EPA in support of the TECI effluent guideline utilized method 1664. Therefore, all effluent limitations proposed for Oil and Grease and TPH in this effluent guideline are to be measured by Method 1664.

Regulated facilities can meet the proposed limitations through the use of any combination of physical, chemical or biological treatment, or implementation of pollution prevention strategies (good heel removal and water conservation). Additional information on the development of effluent limitations and the technology options considered for regulation is included in Section VIII.A and VIII.B of this proposed rule.

EPA based its decision to select specific pollutants to establish effluent limitations on a rigorous evaluation of available sampling data. This evaluation included factors such as the concentration and frequency of detection of the pollutants in the industry raw wastewater, the relative toxicity of pollutants as defined by their toxic weighting factors, the treatability of the pollutants in the modeled treatment systems, and the potential of the pollutants to pass through or interfere with POTW operations. Particular attention has been given to priority pollutants which have been

detected at treatable levels. Due to the inherent variability of TEC wastewater, EPA does not have sufficient analytical data to establish effluent limitations for each specific pollutant which may be present in the industry wastewater on any given day. EPA has therefore attempted to select several pollutants which have been detected frequently at sampled facilities, which are a possible indicator of the presence of similar pollutants, and whose control through some combination of physical, chemical and biological treatment will be indicative of a well-operated treatment system capable of removing a wide range of pollutants.

EPA determined the regulatory flows to be used in the calculation of mass based limits from information provided in the Detailed Questionnaire. EPA analyzed the average wastewater flow generated per tank on a facility by facility basis by dividing the annual wastewater volume by the number of tanks cleaned at that facility. The regulatory flow for each subcategory was then determined by taking the median of the average flow per tank values of each facility in the subcategory. Because each facility in the TEC database represents a statistical population of facilities, EPA used the bootstrap method to account for the facility survey weights in order to determine the median subcategory flow. A more detailed explanation of the bootstrap method and the calculation of regulatory flow can be found in the ''Statistical Support Document of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category''.

The pollutants for which limits are proposed include volatile organics, semi-volatile organics, metals, and classical pollutants. EPA does not propose to establish effluent limitations for any pesticides or herbicides for two reasons. One, the cost associated with monitoring for these parameters is very high; and two, EPA's sampling data that has shown that the discharge concentrations of pesticides and herbicides are generally treated by the proposed technology options. EPA also does not propose to establish effluent limitations for dioxins/furans, although 2,3,7,8 TCDD and 2,3,7,8-TCDF were detected in samples collected at several barge and rail facilities. Based on an evaluation of the sampling data from facilities where dioxins were detected, EPA has determined that the detection of 2,3,7,8 TCDD and 2,3,7,8-TCDF were isolated, site-specific instances, and as a general rule dioxins should not be detected in wastewaters from this segment of the industry. Therefore, effluent limitations for dioxins are not proposed for inclusion in this regulation.

Although the wastewater treatment systems sampled by EPA to establish effluent limitations are not designed specifically for metals control, EPA believes that establishing numeric limitations for metals based on these technologies is still appropriate. Based on an evaluation of TECI wastewater characterization and treatment performance data, EPA has concluded that metals present in TECI wastewater are predominantly associated with solids as opposed to being in solution. Since the modeled treatment systems used to establish effluent limitations are designed for solids removal, EPA believes that incidental removals of metals will occur, and therefore effluent limitations for certain metals are justified.

Finally, EPA conducted a pass-through analysis on the pollutants proposed to be regulated under BPT and BAT to determine if the Agency should establish pretreatment standards for any pollutant. (The pass-through analysis is not applicable to conventional parameters such as BOD_5 and TSS.) EPA is proposing pretreatment standards for those pollutants which the Agency has determined to pass through a POTW.

EPA is proposing to establish pretreatment standards for existing facilities and new sources discharging wastewater to POTWs in the following subcategories: Truck/Chemical and Rail/Chemical Subcategories. Additionally, EPA is proposing to establish pretreatment standards for new sources discharging wastewater to POTWs in the Barge/Chemical & Petroleum Subcategory.

Based on the pass-through analysis, EPA is proposing to set PSES and PSNS standards in the Truck/Chemical Subcategory for Chromium, Zinc, COD, Bis (2-ethylhexyl) pthalate, di-N-octyl phthalate, N-Dodecane, N-Hexadecane, Styrene, and 1,2-dichlorobenzene. Based on the pass-through analysis, EPA is proposing to set PSES and PSNS standards in the Rail/Chemical Subcategory for SGT–HEM, COD, N-Hexadecane, N-Tetradecane, and Fluoranthene. Based on the pass-through analysis, EPA is proposing to set PSNS standards in the Barge/Chemical & Petroleum Subcategory for SGT-HEM, COD, Cadmium, Chromium, Copper, Lead, Nickel, Zinc, 1-Methylphenanthrene, Bis (2-ethylhexyl) Phthalate, Di-N-Octyl Phthalate, N-Decane, N-Docesane, N-Dodecane, N-Eicosane, N-Octadecane, N-Tetracosane, N-Tetradecane, P-Cymene, and Pyrene.

EPA solicits comments on the appropriateness of the pollutants selected for regulation, including the decision to establish effluent limitations for metals using modeled treatment systems not specifically designed for metals control. The Agency also solicits data which will support or refute the ability of TEC facilities to meet the proposed effluent limitations using the modeled treatment systems.

IX. Costs and Pollutant Reductions Achieved by Regulatory Alternatives

A. Methodology for Estimating Costs

EPA estimated industry-wide compliance costs and pollutant loadings associated with the effluent limitations and standards proposed today using data collected through survey responses, site visits, and sampling episodes. Cost estimates for each regulatory option are summarized in Section X of today's notice, and in more detail in the Technical Development Document.

EPA developed industry-wide costs and loads based on 176 facility responses to the Detailed Questionnaire. The statistical methodology for this selection is further explained in the Statistical Support Document. EPA calculated costs and loads for questionnaire recipients and then modeled the national population by using statistically calculated survey weights.

EPA evaluated each of the 176 Detailed Questionnaire recipients to determine if the facility would be subject to the proposed limitations and standards and would therefore incur costs as a result of the proposed regulation. Eighty-three facilities were not modeled to incur costs because:

- 34 facilities were located at industrial sites subject to other Clean Water Act final or proposed categorical standards and thus would not be subject to the limitations and standards under the proposed approach for this guideline.
- 49 facilities indicated that they were zero or alternative dischargers (i.e., did not discharge their TEC generated wastewaters either directly or indirectly to a surface water).

Each of the 93 Detailed Questionnaire recipients, plus four direct discharging facilities which did not receive the questionnaire, were assessed to determine TEC operations, wastewater characteristics, daily flow rates (process flow rates), operating schedules, tank cleaning production (i.e., number of tanks cleaned), and wastewater treatment technologies currently in place at the site.

Facilities that did not have the proposed technology option already in-place were projected to incur costs as a result of compliance with this guideline. A facility which did not have the technology in-place was costed for installing and maintaining the technology.

A computer cost model based on vendor quotes and validated through Questionnaire responses was used to estimate compliance costs for each of the technology options after taking into account treatment in place and wastewater flow rates for each facility. The computer cost model was programmed with technology-specific modules which calculated the costs for various combinations of technologies as required by the technology options and the facilities' wastewater characteristics. The model calculated the following costs for each facility:

- Capital costs for installed technologies.
- Operating and maintenance (O&M) costs for installed wastewater treatment technologies; including labor, electrical, and chemical usage costs.
- Solids handling costs; including capital, O&M, and disposal.
- Monitoring costs

Additional cost factors were developed and applied to the capital costs in order to account for site work, interface piping, general contracting, engineering, buildings, site improvements, legal/administrative fees, interest, contingency, and taxes and insurance. Other direct costs associated with compliance included retrofit costs associated with integrating the existing on-site treatment with new equipment and monitoring costs.

The capital costs (equipment, retrofit and permit modification) were amortized over 16 years and added to the O&M costs (equipment and monitoring) to calculate the total annual costs incurred by each facility as a result of complying with this guideline. The costs associated with each of the 97 facilities in the cost analysis were then modeled to represent the national population by using statistically calculated survey weights.

For many low-flow facilities, EPA concluded that contract hauling wastewater for off-site treatment was the most cost effective option. Where applicable, EPA calculated costs for hauling wastewater to a Centralized Waste Treatment facility for treatment in lieu of installing additional treatment on-site.

All cost models, cost factors, and cost assumptions are presented in detail in the Technical Development Document. The Agency solicits comments on the cost models and the assumptions used to project the cost of compliance to the industry as a result of today's proposed regulation.

B. Methodology for Estimating Pollutant Reductions

The proposed BPT, BCT, BAT, and PSES limitations will control the discharge of conventional, priority toxic, and nonconventional pollutants from TEC facilities. The Agency developed estimates of the post-compliance long-term average (LTA) production normalized mass loadings of pollutants that would be discharged from TEC facilities within each subcategory. These estimates were calculated using the long-term average effluent concentrations of specific pollutants achieved after implementation of the proposed BPT, BCT, BAT, and PSES technology bases in conjunction with the subcategory-specific regulatory flow per tank cleaned. Long-term average effluent concentrations were statistically derived using treatment performance data collected during EPA's sampling program. Development of these long-term average effluent concentrations is discussed in more detail in Section VIII of this preamble and in the Statistical Support Document. The subcategory-specific regulatory flows were statistically derived based on facility flow data provided in response to the 1994 TEC industry Detailed Questionnaire. The Statistical Support Document also discusses development of subcategory-specific regulatory flows.

BPT, BCT, BAT, and PSES pollutant reductions were first estimated on a site-specific basis for affected facilities that responded to the Detailed Questionnaire and for four additional affected facilities identified from responses to the Screener Questionnaire. Site-specific pollutant reductions were calculated as the difference between the site-specific baseline pollutant loadings (i.e., estimated pollutant loadings currently discharged) and the site-specific post-compliance pollutant loadings (i.e., estimated pollutant loadings discharged after implementation of the regulation). The site-specific pollutant reductions were then multiplied by statistically derived survey weighting (scaling) factors and summed to represent pollutant reductions for the entire TEC industry.

Baseline pollutant loadings (in mass per day) represent the pollutant loading currently discharged by TEC facilities after accounting for removal of pollutants in untreated wastewater by treatment technologies currently in place. To estimate the site-specific baseline pollutant loadings, EPA estimated the untreated pollutant loadings generated by TEC facilities based on data collected during EPA's TEC industry sampling program. For each facility sampled, data on the facility production (i.e., number of tanks cleaned per day), cargo types cleaned, TEC wastewater flow rate, operating hours per day, and operating days per year were collected. These data were then used in conjunction with the analytical data to calculate average untreated pollutant loadings per tank cleaned for each TEC industry subcategory. Although some facilities provided self-monitoring data in response to the Detailed Questionnaire, these data were not useable for the following reasons: (1) Respondents provided different types of data for a nonstandard set of pollutants, (2) the data represented samples collected at a variety of treatment system influent and effluent points, (3) the data were provided as an average estimated by the facility over one or more sampling days, and/or (4) analytical QA/QC data were not provided.

EPA calculated the site-specific untreated pollutant loadings (in mass per day) by multiplying the subcategory-specific untreated pollutant loadings per tank cleaned estimates by the number of tanks cleaned at each facility. For facilities with production in multiple subcategories, estimated pollutant loadings from each subcategory were summed to estimate the site-specific untreated pollutant loadings. Additionally, for some facilities, loadings of pollutants in incidental waste streams loadings (such as bilge and ballast water) were estimated from other EPA program sampling data and other sources. These incidental stream pollutant loadings were also summed to estimate the site-specific untreated pollutant loadings.

The site-specific untreated pollutant loadings were converted to untreated wastewater pollutant concentrations by dividing by the facility daily wastewater discharge flow rate (including TEC wastewater and commingled non-TEC wastewater streams not easily segregated) provided in responses to the Detailed Questionnaire. For each site, the untreated pollutant wastewater concentrations were then compared to the long-term average effluent concentrations achieved by the treatment technologies currently in place (if any). The lower of these concentrations represents the site-specific baseline effluent concentration. The site-specific baseline effluent concentrations were then multiplied by the facility daily wastewater discharge

flow rate (described above) to determine the site-specific baseline pollutant loadings.

Post-compliance pollutant loadings (in mass per day) represent the estimated pollutant loadings that will be discharged after implementation of the regulation. For each site, the baseline pollutant effluent concentrations (described above) were compared to the long-term average effluent concentrations achieved by the technology bases for BPT, BCT, BAT, or PSES. The lower of these concentrations represents the site-specific post-compliance effluent concentrations. The site-specific post-compliance pollutant effluent concentrations were then multiplied by the facility daily wastewater discharge flow rate to determine the site-specific post-compliance pollutant loadings.

Finally, pollutant reductions were calculated at each facility as the difference between the baseline pollutant loadings and the post-compliance pollutant loadings. The pollutant reductions were then multiplied by statistically derived survey weights and summed to represent pollutant reductions for the entire TEC point source category.

X. Economic Analysis

A. Introduction

This section describes the costs, economic impacts, and benefits associated with today's proposal. The economic analysis uses the engineering cost estimates (described in Section IX.A.) to analyze the economic impacts of various technology options. EPA's economic assessment is summarized here; details are available in the ''Economic Analysis of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Point Source Category,'' hereinafter referred to as the EA, which is included in the rulemaking record. The EA estimates the economic impacts of compliance costs on facilities, firms, employment, domestic and international markets, inflation, distribution, environmental justice, and transportation equipment cleaning customers. EPA also prepared an Initial Regulatory Flexibility Analysis (IRFA) under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which estimates the impacts of the proposal on small entities (details in the EA). In addition, a cost-effectiveness analysis of all technology options for eleven subcategories is presented in the ''Cost-Effectiveness Analysis of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Point Source Category,'' hereinafter referred to as the CE document.

B. Economic Impact Methodology

1. Introduction

The TECI is a service industry with modest capital assets in comparison to manufacturing industries. Many of the businesses in this industry are single, stand alone facilities in which the facility, business entity, and firm are the same. There are some multi-facility firms or business entities that own several tank cleaning facilities; a small number of firms own a relatively large number of facilities. The TECI provides a service that is a ''derived demand'' for overall transportation services. As the demand for transportation services in general increases, the demand correspondingly increases for transportation equipment cleaning services.

The EA consists of eight major components: (1) an assessment of the number of facilities that could be affected by this rule; (2) an estimate of the annual aggregate cost for these facilities to comply with the rule using facility-level capital and operating and maintenance (O&M) costs; (3) an evaluation, using a discounted cash flow (DCF) model, to analyze compliance cost impacts on each TECI facility's cash flow (closure analysis); (4) an evaluation, using a financial model, of compliance costs impacts on the financial health of facilities in the industry (financial stress analysis); (5) an evaluation of secondary impacts such as those on employment, markets, inflation, distribution, environmental justice and transportation equipment cleaning customers; (6) an assessment of the potential for impact on new sources (barrier-to-entry); (7) an analysis of the effects of compliance costs on small entities; and (8) a cost-benefit analysis.

All costs reported in this notice are expressed in 1997 dollars, with the exception of cost-effectiveness results, which, by convention, are reported in 1981 dollars. The primary source of data for the economic analysis is the ''1994 Detailed Questionnaire for the Transportation Equipment Cleaning Industry, Part B—Financial and Economic Information,'' hereinafter referred to as the Detailed Questionnaire (the section 308 survey conducted in April 1995; see Section V.C.). Other sources include the Bureau of the Census, industry trade journals, preliminary surveys of the industry, and the ''U.S. Environmental Protection Agency Tank and Container Cleaning Screener Questionnaire.'' All costs were inflated to 1997 dollars using the *Engineering News Record* Construction Cost Index.

2. Methodology Overview

Central to the EA is the cost annualization model, which uses facility-specific capital, operating and maintenance (O&M), and monitoring costs data described in Section IX.A, to determine the total annualized compliance costs. The total annual costs described in Section IX.A (and in the Technical Development Document) are an approximation of the costs of the proposed rule. The refinements to annualization described below provide a more accurate basis for estimating financial impacts to each facility. This model uses these costs and facility specific costs of capital (discount rate), or if not available, the industry average costs of capital, over a 16-year analytic time frame to generate the annual cost of compliance for each technology. EPA chose the 16-year time frame for analysis based on the depreciable life for equipment of this type, 15 years according Internal Revenue Service (IRS) rules, plus approximately one year for purchasing and installing the equipment. The model generates the annualized cost for each option for each facility in the survey, which is then used in the facility impact analyses, discussed below. The annualized compliance costs for each facility are totaled at the national level to provide aggregate annualized costs for each technology option.

For each facility in the transportation equipment cleaning industry, EPA estimated the present value of baseline cash flow using three forecasting methods. EPA used three different scenarios to help address the uncertainty associated with predicting future income streams. The forecasts are based on the three years of financial data provided by each facility in the Detailed Questionnaire, assuming no-real-growth. One forecasting method uses 1994 cash flow as the best predictor of future cash flow. The second method uses the average of 1992, 1993, and 1994 cash flow as the expected cash flow for each year over the sixteen year project life. The third method uses the variation between 1992, 1993, and 1994 cash flow to mimic business cycle fluctuations in cash flow for the period (see EA, Appendix C for details on cash flow forecasting methods).

EPA then calculated the present value of the stream of each facility's post-tax

compliance costs (including the initial capital purchase and each year's operating and maintenance costs) over the sixteen year project life using each of the three forecasting methods. The present value of compliance costs is adjusted downward by a cost pass through factor that is calculated from EPA's TECI market model (see the EA, Appendix B). The market model for the TECI, which quantifies the impact of the proposed effluent guideline on equilibrium price and quantity in each TECI subcategory of the proposed rule, shows that the facilities in the regulated subcategories will be able to pass some portion of the compliance costs of the proposed rule through to their customers. The market model calculates the percentage that can be passed through for each subcategory. The adjusted present value of compliance costs represents the estimated change in facility cash flow caused by the proposed regulation.

For each of the subcategories in this industry, the estimated change in the present value of cash flow is subtracted from the projected present value of baseline facility cash flow to estimate the present value of post compliance cash flow. If the present value of post compliance cash flow is negative under two of the three forecasting methods, EPA considers the facility likely to close (i.e., liquidate) as a result of the regulation.

In the firm financial stress analysis, EPA uses the annualized costs to estimate changes to the balance sheets and income statements for each firm. This analysis estimates changes in financial information of each firm such as earnings, assets, liabilities, and working capital at the firm level (accounting for multiple facilities, where applicable). These postcompliance financial figures are used in a computerized model of financial health on a firm-by-firm basis. The model uses an equation known as Altman's Z″, which was developed using empirical data to characterize the financial health of firms, specifically for service industries such as the TECI. This model calculates one value, using financial data from the Detailed Questionnaire, that can be compared to index numbers that define ''good'' financial health, ''indeterminate'' financial health, and ''poor'' financial health. All firms whose Altman's Z″ value changes such that the firm goes from a ''good'' or ''indeterminate'' baseline category to a ''poor'' postcompliance category are classified as likely to have significant difficulties raising the capital needed to comply with the proposed rule, which can indicate the likelihood of firm bankruptcy, or loss of financial independence. To complement the Altman Z″ financial analysis, EPA uses two financial ratios: the current ratio (compares current assets to current liabilities) and the times interest earned ratio (compares annual interest obligations to annual cash flow). In most of the firm analyses, the current ratio and the time interest earned ratio tend to verify the Altman Z″ results.

In the employment analysis, EPA uses input-output analysis and market analysis. Using input-output analysis, EPA conducts a national-level analysis for estimating employment changes (gains and losses) throughout the U.S. economy in all non-TECI sectors of the economy. In this analysis, EPA uses both compliance costs and employment losses driven by facility closures to determine a range of possible gross and net (losses minus gains) impacts at the national level. Using market analysis, EPA's estimates market-determined production losses to derive an estimate of direct, net employment losses in the transportation equipment cleaning industry alone. Market analysis is undertaken to determine losses within the transportation equipment cleaning industry alone; while closure losses can be considered the immediate impact of the proposed rule on the industry, production-driven losses might be greater or less than closure losses over time, as equilibrium in the market is attained. Furthermore, closure losses do not account for the fact that some portion of production might transfer wholly or in part to operating pollution control equipment, thus accounting for some employment gains within the industry.

EPA investigates secondary impacts qualitatively and quantitatively. These impacts include impacts on international markets, impacts on substitutes for transportation equipment cleaning services, impacts on inflation, distributional impacts, and impacts on environmental justice. EPA also investigates the impact of the rule on domestic markets. The rule will affect domestic markets to the extent that zero discharge or excluded facilities have a competitive advantage over affected facilities.

EPA also looks at impacts on customers. The Agency analyzed the increase in prices that could be anticipated on a postcompliance basis. For the long term price equilibrium, the Agency determined the change in the number of tanks that would be cleaned. The analysis indicates a very modest decrease in the number of tanks cleaned. In many instances, this will probably occur as a slight decrease in the frequency of tank cleanings. In other cases, some customers could decide to buy ''dedicated'' tanks which would need infrequent or no cleaning.

Another key analysis EPA performs is an analysis to determine impacts on new sources, which is primarily a ''barrier-to-entry'' analysis to determine whether the costs of the PSNS or NSPS would prevent a new source from entering the market. This analysis looks at whether new transportation equipment cleaning facilities would be at a competitive disadvantage compared to existing sources. Market effects and barrier-to-entry results associated with zero discharge and small facility exclusion (if any) also are qualitatively investigated.

The EA also includes a cost-benefit analysis. This analysis looks at the social costs of the regulation measured as the pretax costs of compliance plus government administrative costs plus the costs of administering unemployment benefits (if any). Total social costs are compared to total social benefits in the analysis. See Section XI of this notice for a discussion of the benefit analysis.

EPA solicits comment on the methodologies described above. In particular, the Agency requests comment on the assumptions used in the analyses. Details of the methodologies and assumptions are available in the EA and the CE documents.

C. Summary of Costs and Economic Impacts

1. Number of Facilities Incurring Costs

EPA estimated that there are 1,239 facilities in the TEC industry not regulated under other effluent guidelines. Of these, 547 facilities are considered zero or alternative discharging facilities and are not expected to incur costs to comply with the TEC effluent guideline. EPA estimates that there are approximately 692 discharging facilities which may incur costs to comply with this proposal and upon which EPA conducted its analysis. Not all of these facilities are expected to incur costs because EPA is proposing not to regulate certain subcategories. Of the 1,239 facilities, 437 facilities meet the definition of small businesses. Of the 692 discharging facilities, 184 facilities meet the definition of small businesses. EPA used the Small Business Administration's (SBA) definition of small for the SIC codes that cover the TECI to develop a small business definition proposal. About 40 percent of the TECI facilities

have an SIC code that uses $5 million in annual revenue as the criterion for a small business.

2. Total Costs and Impacts of the Proposed Rule

a. Introduction.

The capital investment costs for all facilities total about $66 million. Total annualized costs of the proposed regulation for all facilities are estimated to be about $23.1 million, which includes about $5 million of annualized capital costs and $18 million in annual operation and maintenance costs.

The total annual costs are estimated using the capital investment, annual operation and maintenance costs, and monitoring costs. Capital costs are annualized by spreading them over the life of the project (much like a home mortgage). These annualized capital costs are then added to the annual operation and maintenance costs and to the monitoring costs. The result is the total annualized costs for each technology option.

Table 5 summarizes the total annualized costs for direct and indirect discharger requirements. Table 6 presents additional detail on the costs for direct dischargers, and Table 7 presents a similar level of detail for indirect dischargers.

TABLE 5.—COSTS OF PROPOSED TEC RULE

Rule	Posttax annualized costs ($1997 thousand)
PSES	$21,470
BPT/BAT	1,630
Total	23,100

Note: Totals may not sum due to rounding.

TABLE 6.—COSTS OF IMPLEMENTING BPT, BCT, AND BAT

[In thousands of 1997 Posttax dollars]

Subcategory	Total capital investment	Total annualized costs
Truck/Chemical	$144	$80
Rail/Chemical	122	40
Barge/Chemical & Petroleum	3,400	1,500
Truck/Food	0	0
Rail/Food	0	0
Barge/Food	0	0

TABLE 7.—COSTS OF IMPLEMENTING PSES

[In thousands of 1997 Posttax dollars]

Subcategory	Total capital investment	Total annualized costs
Truck/Chemical	$57,700	$20,200
Rail/Chemical	$4,700	$1,300

When final guidelines are promulgated, a facility is free to use any combination of wastewater treatment technologies and pollution prevention strategies at the facility so long as the numerical discharge limits are achieved. In some cases, a facility might choose flow reduction or some combination of capital investment or additional operation and maintenance expenditures may be required. In its cost estimates, EPA has assumed that all of the facilities in the Truck/Chemical and Rail/Chemical Subcategories and most in the Barge/Chemical & Petroleum Subcategories will need to make capital improvements or perhaps modify operation and maintenance practices. For the Food subcategories, all existing facilities which responded to the screener survey questionnaire indicated that they currently have in place the technology that the Agency has identified as the basis for limitations. Therefore, the Agency believes that they will incur no costs to comply. (See Section VIII.B)

b. Impacts From PSES. EPA estimates that the total compliance costs for PSES will be approximately $21.5 million per year. These costs include compliance with PSES for the Truck/Chemical and Rail/Chemical Subcategories. Total annual compliance costs for the Truck/Chemical Subcategory are based on technology Option II; for Rail/Chemical, on technology Option I.

EPA estimates that the proposed technology options would result in no facility closures. However, EPA predicts that the proposed PSES may cause some financial stress on 29 facilities and could affect the capability of these facilities to raise capital needed to purchase and install pollution control equipment. All of these facilities are in the Truck/Chemical Subcategory and most are in-house facilities. This impact does not mean that these facilities will close; all of these facilities are economically viable and are thus considered likely to be of interest to other firms for acquisition and operation. They may also be successful at improving their financial health and become attractive to lenders in the future.

Within non-TEC industries, EPA's economic analysis indicates that some industries that provide materials and equipment to the TEC industry may experience revenue increases as a result of the proposed regulation. However, some of these industries could incur revenue losses. EPA's economic analysis indicates that the proposed regulation would result in net losses of about 300 to 500 jobs in these industries (i.e., non-TEC industries). These impacts were estimated using the input-output methodology. Details of this analysis are available in the EA.

Within the TEC industry itself, EPA determined that many financially healthy facilities might actually experience gains in production (and thus gains in output and employment). Financially healthy facilities in the local market area might expand to take over

a portion of production from a facility having financial difficulties. In addition, some employment gains are anticipated for installation and operation of wastewater treatment facilities.

EPA determined that most facility financial stress will result in a maximum change in a community's unemployment rate of no more than 0.5 percent. Because the methodology assumes that all of the community impacts would occur in one State, the more probable impact is considerably lower. Thus, the community impact from the transportation equipment cleaning industry regulation is estimated to be negligible. EPA solicits comments on whether this approach is overly conservative.

EPA expects the proposed rule to have a minimal impact on international markets. Domestic markets might initially be slightly affected by the rule, because tank cleaning facilities will absorb a portion of the compliance costs and will pass a portion of the costs through to their customers. For the portion of compliance costs passed through to cleaning facilities' customers, EPA's market model estimates that prices will increase from about 2.1 percent to about 5.7 percent. Output, or the number of tanks cleaned, will decrease from about 0.1 percent to about 1.1 percent. Because tank cleaning is an essential service and is a very small part of total transportation services costs, customers may not be as sensitive to tank cleaning prices as they are to larger cost elements. Customers may accept marginally higher tank cleaning prices if the whole industry is subject to higher costs. An individual facility would have difficulty independently increasing prices in the absence of industry wide price increases.

EPA expects the proposed rule to have minimal impacts on inflation, insignificant distributional effects, and no major impacts on environmental justice.

EPA also investigated the likelihood that customers might use methods other than installing additional on-site wastewater treatment in order to comply with the proposed regulations. Substitution possibilities, of operating on-site facilities or purchasing dedicated tanks, are associated with potential negative impacts on customers that might deter them from choosing these potential substitutes. On-site tank cleaning capabilities require capital investment, operation and maintenance, and monitoring costs. The decision to build an on-site tank cleaning capability is more likely determined by non-pricing factors such as environmental liability, tank cleaning quality control, and internal management controls.

EPA's analysis does not indicate that transportation service companies (i.e., TEC customers) would likely decide to build a tank cleaning facility as a result of EPA's proposal. Further, because of the high initial costs to install equipment on-site ($1.0 million to $2.0 million for a tank cleaning facility) and the small increase in price of transportation equipment cleaning services discussed earlier, on-site transportation equipment cleaning could require years before any cost savings might be realized. Also, EPA's market model provides a means for estimating price increases and reductions in quantity demanded for transportation equipment cleaning services at the higher price. This analysis shows a very small decrease in the number of tanks cleaned as a result of the proposed rule, from about 0.1 percent to about 1.1 percent of baseline production across the subcategories. Given the disincentives towards substitutes indicated above, EPA does not expect the proposed rule to cause many customers to substitute on-site facilities for transportation equipment cleaning services or to substitute dedicated tanks. The small reduction in production is more likely to occur from customers delaying cleaning (rather than cleaning tanks after delivery of every load) or dropping certain services such as handling toxic wastes heels. This decline in production is negligible compared to the approximate 10 to 20 percent per year revenue growth for the industry between 1992 and 1994, according to data in the Detailed Questionnaire.

c. Impacts From BPT, BCT, BAT. As described in Section VIII.B of today's notice, EPA is proposing effluent limitations based on BPT, BCT, and BAT for the Truck/Chemical, Rail/Chemical, and Barge/Chemical & Petroleum Subcategories. The proposed limitations are the same for all levels of direct discharge requirements. The summary of costs and economic impacts is presented here for all levels. For BPT and BCT, additional information on cost and removal comparisons is presented in the Technical Development Document.

EPA estimates that the total annual compliance costs for BPT, BCT, and BAT will be $1.6 million. This estimate includes BPT, BCT, and BAT costs for the Truck/Chemical, Rail/Chemical, and Barge/Chemical & Petroleum Subcategories. For the Food Subcategories, although EPA is proposing effluent limitations based on BPT and BCT, EPA projects no compliance costs because all facilities identified by EPA were determined to already have the proposed treatment technology in place. (See Section VIII.B). EPA based its analysis on Option II for the Truck/Chemical Subcategory, Option I for the Rail/Chemical Subcategory, and Option I for the Barge/Chemical & Petroleum Subcategory. EPA based its analysis for the Truck Food, Rail Food, and Barge Food Subcategories on Option II.

As explained in Section X.b.1, EPA used economic and financial data obtained through the Detailed Questionnaire to evaluate economic impacts that would occur as a result of compliance with today's proposal. Certain segments of the TEC industry, especially in the Truck/Chemical and Rail/Chemical Subcategories, consist mainly of facilities discharging to a POTW. Due to the limited number of direct discharging facilities identified by EPA in these subcategories, EPA did not obtain detailed economic information from direct discharging facilities in the Truck/Chemical or Rail/Chemical Subcategories. EPA is, however, aware of at least three Truck/Chemical facilities and one Rail/Chemical facility that are discharging wastewater directly to surface waters.

For the economic analysis in these subcategories, EPA relied on the economic data collected for the indirect discharging Truck/Chemical facilities and the indirect discharging Rail/Chemical facilities. EPA assumed that the economic profile of direct discharging facilities is similar to that of indirect discharging facilities. EPA believes this is a reasonable approach because the Agency does not believe there is any correlation between annual revenue or facility employment and the method that a facility chooses to discharge its wastewater. Rather, the decision on whether to discharge wastewater directly or indirectly is determined by such considerations as cost, proximity to a POTW, permitting requirements, and wastewater treatment technology options.

EPA therefore assumed that the direct discharging Truck/Chemical and Rail/Chemical facilities were similar to indirect discharging facilities in terms of annual revenue, facility employment, and the number of tanks cleaned. Information on each of these indices was provided to EPA by the four direct discharging facilities in the Screener Questionnaire. EPA then identified facilities in the Detailed Questionnaire database which were similar to each of the direct dischargers in terms of revenue, employment, and tanks cleaned. EPA then simulated the

financial and economic profile for the direct discharging facilities based on data provided by similar indirect discharging facilities in the same subcategory. Based on this analysis, EPA determined that implementation of BPT would result in no facility closures, and thus no revenue losses or employment losses are expected to occur. The Agency solicits data and comment on the assumptions used for the economic achievability analysis for the Truck/Chemical and Rail/Chemical Subcategories.

For the Barge/Chemical & Petroleum Subcategory, EPA estimated total annualized compliance costs for the 14 facilities based on responses to the Detailed Questionnaire. EPA has projected no facility closures, employment losses or revenue losses for these facilities.

In addition to the costs of the effluent guideline discussed in this section, the Barge/Chemical & Petroleum Subcategory may be subject to incremental costs under new Clean Air Act regulations. For these facilities, EPA has reviewed the economic analysis prepared for the 1995 Clean Air Act (CAA) regulation (National Emission Standards for Shipbuilding and Ship Repair, 60 FR 64336). EPA identified only one Tank Barge and Petroleum facility that overlaps with the facilities covered by this CAA regulation. In the economic analysis for today's proposal, EPA includes a sensitivity analysis and assumed that all Tank Barge and Petroleum facilities that indicate that they perform repair, painting, or related activities will be subject to the CAA regulation. EPA's sensitivity analysis of the CAA incremental costs suggests little or no change in economic impacts for the Barge/Chemical & Petroleum facilities. EPA solicits comment on the relevance of CAA costs to comply with this proposal. EPA also solicits data on the magnitude of these costs and on the number of facilities affected by today's proposal which are in ozone non-attainment areas.

d. Impacts From PSNS. As described in Section VIII.B, EPA is proposing PSNS equivalent to PSES for the Truck/Chemical and Barge/Chemical & Petroleum Subcategories. For the Rail/Chemical Subcategory, EPA is proposing PSNS based on a more stringent technology control option than proposed for PSES. For Truck/Chemical, Option II was selected, for Rail/Chemical Option III was selected, and for Barge/Chemical & Petroleum, Option II was selected.

EPA assesses impacts on new indirect sources by determining whether the proposed rule would result in barrier-to-entry into the market. EPA has determined that overall impacts from the proposed TECI effluent guidelines on new sources would not be any more severe than those on existing sources. Generally, the costs faced by new sources will be the same as, or less than, those faced by existing sources. It is typically less expensive to incorporate pollution control equipment into the design at a new plant than it is to retrofit the same pollution control equipment in an existing plant; no demolition is required, and space constraints, which can add to costs if specifically designed equipment must be ordered, are not an issue in new construction.

For the Truck/Chemical Subcategory, average facility assets are over $2.8 million. In its economic analysis, EPA determined that the average facility compliance capital costs for this subcategory would be $0.2 million. The ratio of average facility compliance capital costs to average facility assets would be approximately seven percent. EPA concluded that the capital costs to comply with the standards are modest in comparison to total facility costs and would not pose a barrier-to-entry.

For the Rail/Chemical Subcategory, responses to the Detailed Questionnaire indicate that the average facility assets total about $6.4 million. For this subcategory, average facility compliance capital costs total about $0.1 million, or about two percent of average facility assets. EPA concluded that the average annual incremental facility costs are low in comparison to average facility assets and that PSNS would therefore not pose a barrier-to-entry.

EPA also examined whether there would be barrier-to-entry for new sources. EPA investigated facilities in the Detailed Questionnaire that indicated they were new or relatively new at the time of the survey. Over a three year period (1992, 1993, 1994), according to the Detailed Questionnaire, about 60 facilities began transportation equipment cleaning operations, although it is not absolutely clear from the data whether these facilities were actually new dischargers or were existing dischargers acquired in that year by a different firm. Over the 3-year period, this amounts to about 20 new sources a year, or about three percent of the number of existing facilities. EPA believes that new sources are replacing production from closing facilities that exist in the market and are also adding modest additional tank cleaning capacity in the TECI.

EPA concludes that new small facilities will not experience a barrier-to-entry to the transportation equipment cleaning industry.

e. Impacts From NSPS. As described in Section VIII.B, EPA is proposing NSPS equivalent to BPT, BCT, and BAT for the Truck/Chemical and Barge/Chemical & Petroleum Subcategories. For the Rail/Chemical Subcategory, EPA is proposing NSPS based on a more stringent technology control option than proposed for existing sources. EPA assesses impacts on new direct sources by determining whether the proposed rule would result in barrier-to-entry into the market.

For the Barge/Chemical & Petroleum Subcategory, the average facility assets for a barge chemical cleaning facility are about $2.1 million. The average compliance capital cost for the proposed regulation for a barge chemical cleaning facility is about $0.2 million or about 11 percent of average facility assets. This is a relatively small amount of average capital assets. This percentage is expected to be lower for new facilities, because they can include pollution control equipment in the design of new facilities.

In an analysis of the Detailed Questionnaire, EPA determined that about 20 new tank cleaning businesses were established per year during 1992, 1993, and 1994 timeframe. Although EPA has not determined the number of new facilities that are direct dischargers, the Agency assumes that the number of new direct discharging facilities is small. EPA concludes this, because the number of existing direct dischargers is small (based on screener data).

Similar to PSNS, EPA concludes that no barrier-to-entry exists for new direct discharge sources to construct, operate, and maintain these technologies.

3. Economic Impacts of Accepted and Rejected Options

The options selected as the basis for regulation are associated with no facility closures; 29 indirect discharge facilities are projected to experience some financial stress (but not close) and thus possibly lose their financial independence. A net direct total of no FTEs would be lost in the transportation equipment cleaning industry (direct, production-driven losses) with these options, and other secondary impacts (effects on trade, inflation, and customers) would be negligible.

As discussed in section VIII, EPA considered several technology options for each subcategory. A summary of costs and impacts for all BPT, BCT, BAT, NSPS, PSES, and PSNS options are shown in Table 8.

TABLE 8.—SUMMARY OF IMPACTS FOR PROPOSED BPT, BAT, NSPS, PSES, AND PSNS OPTIONS

Subcategory	Option	Posttax annualized costs ($ 1997 thousands)	Facility closures	Financial stress	Employment losses
Truck/Chemical (Direct)	Option I	$78	0	0	0
	Option II (Proposed for BPT, BCT, BAT, NSPS).	78	0	0	0
Truck/Chemical (Indirect)	Option I	13,200	0	22	0
	Option II (Proposed for PSES, PSNS)	20,206	0	29	0
Rail/Chemical (Direct)	Option I (Proposed for BPT, BCT, BAT)	39	0	0	0
	Option II	74	0	0	0
	Option III (Proposed for NSPS)	89	0	0	0
Rail/Chemical (Indirect)	Option I (Proposed for PSES)	1,262	0	0	0
	Option II	1,953	6	0	421
	Option III (Proposed for PSNS)	2,630	6	0	421
Barge/Chemical & Petroleum (Direct)	Option I (Proposed for BPT, BCT, BAT, NSPS).	1,508	0	0	0
	Option II	1,774	0	0	0
Barge/Chemical & Petroleum (Indirect)	Option I	122	0	0	0
	Option II (Proposed for PSNS)	187	0	0	0
	Option III	215	0	0	0
Truck/Food (Direct)	Option I.				
	Option II (Proposed for BPT, BCT, BAT, NSPS).				
Truck/Food (Indirect)	Option I	3,236	0	17	0
	Option II	8,022	8	17	153
Rail/Food (Direct)	Option I.				
	Option II (Proposed for BPT, BCT, BAT, NSPS).				
Rail/Food (Indirect)	Option I	2,098	0	0	0
	Option II	6,218	0	0	0
Barge/Food (Direct)	Option I.				
	Option II (Proposed for BPT, BCT, BAT, NSPS).				
Barge/Food (Indirect)	Option I	19	0	0	0
	Option II	41	0	0	0
Truck/Hopper (Indirect)	Option I	334	5	0	38
Rail/Hopper (Indirect)	Option I	16	0	0	0
Barge/Hopper (Direct)	Option I	411	0	0	0
Barge/Hopper (Indirect)	Option I	21	0	0	0
Truck/Petroleum (Indirect)	Option I	536	0	0	0
Rail/Petroleum (Indirect)	Option I	87	0	0	0

4. Small Business Analysis

EPA estimated that there are 1,239 TEC facilities not regulated by other CWA effluent guidelines. Of these, 437 facilities meet the definition of small businesses. There are 692 TEC discharging facilities which may incur costs to comply with today's proposal. Of these, 184 facilities meet the definition of ''small'' under the Small Business Administration's (SBA) definition of $5 million in annual revenue for many of the SIC codes that cover the TECI. The 184 small facilities are about 27 percent of the discharging facilities in the industry. Not all of these facilities will be affected by today's proposal because EPA is not proposing effluent limitations for all subcategories.

EPA's small business analysis satisfies the requirements of an Initial Regulatory Flexibility Analysis (as required by the Regulatory Flexibility Act; see section XIII.B of today's notice) and also documents the Agency's findings of economic achievability for the small business segment of the regulated community. The small business analysis, in its entirety, is in Chapter VI of the EA.

A key aspect of the small business analysis was an attempt to identify a means to minimize economic impacts for small businesses. Among the Agency's considerations was an exclusion for small facilities, where the exclusion could be based on criteria such as the number of tanks cleaned, gallons of wastewater generated per day, employment, or annual revenues. EPA evaluated alternative levels for each of these criteria as potential bases for excluding small businesses. For each potential exclusion, EPA considered the projected economic impacts, both in absolute terms and in relative terms (i.e., whether the impacts were higher, proportionately, for the small businesses). The economic impacts that EPA considered for small facilities include those described in section X.B.2, such as closures, and other impacts, such as a comparison of compliance cost to annual revenues. EPA projects no facility closures among small businesses. EPA projects that 14 small businesses will experience financial stress.

For the preliminary comparison of costs to revenues, EPA relied on a conservative set of assumptions such as zero cost pass through. EPA relied on these results to determine whether there might be any potential need to prepare an IRFA. Subsequently, EPA also compared cost to revenue using other assumptions from the market model described in X.B.2. All of these results are presented in the IRFA. Using both sets of assumptions related to cost pass through, EPA estimates that either 75 or 50 small businesses would incur costs

exceeding one percent of revenues, and either 64 or 17 small businesses would incur costs exceeding three percent of revenues.

Small facilities are not concentrated in any one market area and the competitive advantages, if those facilities were excluded, might be limited. EPA's analysis shows that there is a very slight increase in tank cleaning prices as a result of the proposed rule. For example, the price per tank cleaned in the Truck/Chemical Subcategory would be expected to increase from $279 per tank cleaned to $295 per tank cleaned, a 5.7 percent increase. Based on an industry-wide market analysis that includes zero discharge facilities, with this increase in tank cleaning prices, the number of tanks cleaned in the Truck/Chemical Subcategory would decrease from about 770,000 tanks cleaned to about 762,000 tanks cleaned, a 1.1 percent decrease in the number of tanks cleaned. Because tank cleaning is an essential service and is a very small component of transportation services, customers do not appear to be as sensitive to price changes as they would be to a service which is a larger component of overall transportation services; therefore, dischargers subject to the proposed rule would be able to compete with zero discharge facilities. The analysis suggests that an exclusion from the rule may provide small businesses with a modest comparative cost and price advantage over facilities subject to the regulation. However, that comparative cost advantage may be slight; overall price changes are projected to be modest and small facilities may not have the market power of larger facilities.

The analysis of potential small business exclusions also includes a comparison of economic impacts and pollutant loadings; this type of comparison is especially helpful for identifying regulatory alternatives that would provide economic relief without removing a significant portion of the pollutant loading or other benefit of the rule. This analysis shows that small facilities contribute a proportional amount of the pollutant loads discharged into surface waters.

EPA evaluated more than 20 potential small business exclusions, but has not identified an exclusion consistent with the CWA that minimizes the economic impacts while still preserving the benefits of the proposed rule. Hence, no small business exclusion is incorporated into today's proposal. EPA solicits comments on a small business exclusion that would minimize the impacts on those small firms for which projected compliance costs represent a significant share of costs or net income, or more generally, any regulatory alternative that would minimize the economic impacts on small businesses.

D. Cost-Benefit Analysis

Table 9 presents a comparison of the costs and benefits of the proposed transportation equipment cleaning industry regulation. The proposed options are expected to have a total annual social cost of $37.5 million in 1997 dollars, which includes a $36.9 million in pretax compliance costs, $0.6 million in administrative costs, and almost zero costs for administering unemployment benefits. Annual benefits are expected to range from $2.7 million to $9.3 million in 1997 dollars, which includes $1.8 million to $6.2 million for recreational benefits and $0.9 million to $3.1 million associated with nonuse values benefits. The derivation of annual benefits is discussed in Section XI.

TABLE 9.—SUMMARY OF THE COST-BENEFIT ANALYSIS

Category	Costs and benefits ($ 1997 millions)
Costs	
Compliance Costs	$36.9
Administrative Costs	0.6
Administrative Costs of Unemployment	0.0–0.006
Total Social Costs	37.5
Benefits	
Human Health Benefits	
Recreational Benefits:	
Truck/Chemical	1.6–5.6
Barge/Chemical & Petroleum	0.2–0.6
Nonuse Benefits	0.9–3.1
Total Monetized Benefits	2.7–9.3

There are a number of additional use and nonuse benefits associated with the proposed standards that could not be monetized. The monetized recreational benefits were estimated only for fishing by recreational anglers, although there are other categories of recreational and other use benefits that could not be monetized. Examples of these additional benefits include: reduced noncancer health effects, enhanced water-dependent recreation other than fishing, reduced POTW operating and maintenance costs, and reduced administrative costs at the local level to develop and defend individually derived local limits for transportation equipment cleaning facilities. There are also nonmonetized benefits that are nonuse values, such as benefits to wildlife, threatened or endangered species, and biodiversity benefits. Rather than attempt the difficult task of enumerating, quantifying, and monetizing these nonuse benefits, EPA calculated nonuse benefits as 50 percent of the use value for recreational fishing. This value of 50 percent is a reasonable approximation of the total nonuse value for a population compared to the total use value for that population. This approximation should be applied to the total use value for the affected population; in this case, all of the direct uses of the affected reaches (including fishing, hiking, and boating). However,

since this approximation was only applied to recreational fishing benefits for recreational anglers, it does not take into account non-use values for non-anglers or for the uses other than fishing by anglers. Therefore, EPA has estimated only a portion of the nonuse benefits for the proposed standards.

E. Cost-Effectiveness Analysis

In addition to the foregoing analyses, EPA has conducted cost-effectiveness analyses for the multiple options considered for each of the subcategories in the transportation equipment cleaning industry. The methodologies, details, and results of these analyses are presented in the report ''Cost Effectiveness Analysis for Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Industry Point Source Category,'' which is included in the rulemaking record. The CE analysis evaluates the relative efficiency of technology options in removing toxic pollutants. The costs evaluated include the pretax direct compliance costs, such as capital expenditures and O&M costs, which are annualized and compared to incremental and total pollutant removals.

Cost-effectiveness results are expressed in terms of the incremental and average costs per ''pound equivalent'' (PE) removed. PE is a measure that addresses differences in the toxicity of pollutants removed. Total PEs are derived by taking the number of pounds of a pollutant removed and multiplying this number by a toxic weighting factor (TWF). EPA calculates TWFs for priority pollutants and some additional nonconventional pollutants using ambient water quality criteria and toxicity values. The TWFs are then standardized by relating them to a particular pollutant, in this case, copper. PEs are calculated only for pollutants for which TWFs have been estimated, thus they do not reflect potential toxicity for some nonconventional pollutants and any conventional pollutants. EPA calculates incremental cost-effectiveness as the ratio of the incremental annual costs to the incremental PE removed under each option, compared to the previous option. Average cost-effectiveness is calculated for each option as the ratio of total costs to total PE removed. In the case of pretreatment standards, EPA does not include pollutant removals if those pollutants could be removed at the POTW, but only includes the removal of pollutants that would pass through the POTW. EPA reports annual costs for all cost-effectiveness analyses in 1981 dollars, to enable limited comparisons of the cost-effectiveness among regulated industries.

EPA calculated cost-effectiveness ratios for the technology options for each of the five regulated subcategories. Detailed results are presented in the CE document. EPA estimates that the incremental cost-effectiveness of the proposed options for direct dischargers is about $108 per PE removed; for indirect dischargers, the incremental cost effectiveness is about $185 per PE removed.

XI. Water Quality Impacts of Proposed Regulations

A. Characterization of Pollutants

EPA evaluated the environmental benefits of controlling the discharges of toxic pollutants from facilities in three subcategories of the Transportation Equipment Cleaning industry to surface waters and POTWs. The detailed assessment can be found in the ''Environmental Assessment of Proposed Effluent Limitations Guidelines and Standards for the Transportation Equipment Cleaning Category''. EPA's evaluation was done in a national analysis of direct and indirect discharges. Discharges of these pollutants into freshwater and estuarine ecosystems may alter aquatic habitats, adversely affect aquatic biota, and adversely impact human health through the consumption of contaminated fish and water. Furthermore, EPA evaluated whether these pollutants being discharged to POTWs by TEC facilities may interfere with POTW operations in terms of inhibition of activated sludge or biological treatment, and evaluated whether they may cause contamination of sludges, thereby limiting available methods of disposal. Many of these pollutants have at least one toxic effect (human health carcinogen or systemic toxicant or aquatic toxicant). In addition, many of these pollutants bioaccumulate in aquatic organisms and persist in the environment.

The Agency's analysis focused on the effects of toxic pollutants and did not evaluate the effects of three conventional pollutants and five nonconventional pollutants including total suspended solids (TSS), five-day biochemical oxygen demand (BOD_5 chemical oxygen demand (COD), oil and grease (measured as hexane extractable material), total dissolved solids (TDS), total organic carbon (TOC), and total phenolic compounds. Although the Agency did not monetize the benefits associated with reductions of these non-toxic parameters, discharges of these parameters can have adverse effects on human health and the environment. For example, habitat degradation can result from increased suspended particulate matter that reduces light penetration, and thus primary productivity, or from accumulation of sludge particles that alter benthic spawning grounds and feeding habitats. Oil and grease, including animal fats and vegetable oils, can have lethal effects on fish by coating gill surfaces and causing asphyxia, by depleting oxygen levels due to excessive biological oxygen demand, or by reducing stream aeration because of surface film. Oil and grease can also have detrimental effects on water fowl by destroying the buoyancy and insulation of their feathers. High COD and BOD_5 levels can deplete oxygen levels, which can result in mortality or other adverse effects on fish. High TOC levels may interfere with water quality by causing taste and odor problems and mortality in fish. The environmental and human health benefits associated with reducing the discharge of these parameters are generally associated with wastewater discharged directly to surface waters. The majority of facilities in the TEC industry discharge to POTWs, which have the ability to treat and control many of these parameters before they reach surface waters.

B. Truck/Chemical Subcategory

1. Indirect Dischargers

EPA evaluated the potential effect on aquatic life and human health impacts of a representative sample of 40 indirect wastewater dischargers of the 288 facilities in the Truck/Chemical indirect subcategory to receiving waters at current levels of treatment and at proposed pretreatment levels. These 40 modeled facilities discharge 80 modeled pollutants in wastewater to 35 POTWs, which then discharge to 35 receiving streams. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria. For those chemicals for which EPA has not published water quality criteria, concentrations were compared to documented toxic effect levels (i.e., lowest reported or estimated toxic concentration). Nationwide criteria guidance were used as the most representative value. In addition, the potential benefits to human health were evaluated by estimating the potential reduction of carcinogenic risk and systemic effects from consuming contaminated fish and drinking water. Risks were also estimated for recreational and subsistence anglers and their families as well as the general

population. Model results were then extrapolated to the national level.

At the national level, 288 facilities discharge wastewater to 264 POTWs, which then discharge into 264 receiving streams. Current loadings (in pounds) of the 80 pollutants evaluated for water quality impacts are reduced 80 percent by the proposed pretreatment regulatory option. EPA projects that in-stream concentrations of one pollutant will exceed human health criteria (for both water and organisms) in 14 receiving streams at current discharge levels. The proposed pretreatment regulatory option eliminates excursions of human health criteria in all 14 streams. EPA also projects 49 receiving streams with in-stream concentrations for one pollutant projected to exceed chronic aquatic life criteria or toxic effect levels at current discharge levels. At the proposed pretreatment, 37 of the 49 streams still show excursions for one pollutant. The remaining 12 streams will no longer have excursions of either kind under the proposed pretreatment. Estimates of the increase in value of recreational fishing to anglers as a result of this improvement range from $ 1.6 to 5.7 million annually (1997 dollars). In addition, the nonuse value (e.g. option, existence, and bequest value) of the improvement is estimated to range from $ 0.8 to $2.9 million (1997 dollars).

The excess annual cancer cases at current pollutant loadings are projected to be much less than 0.5 from the ingestion of contaminated fish and drinking water by all populations evaluated for both the results from the representative sample and those extrapolated to the national level. A monetary value of this benefit to society is, therefore, not projected. The risk to develop systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for 14,173 subsistence anglers in 39 receiving streams for one pollutant at current discharge levels. The risk to develop systemic toxicant effects are projected at the proposed pretreatment for 3,492 subsistence anglers fishing in 16 receiving streams for the same pollutant, reducing the exposed population by 75 percent. Monetary values for the reduction of systemic toxic effects cannot currently be estimated.

2. POTWs

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the 35 modeled POTWs that receive wastewater from the Truck/Chemical Subcategory. Inhibition of POTW operations (impairment of microbial activity) is estimated by comparing predicted POTW influent concentrations to available inhibition levels. Inhibition values were obtained from *Guidance Manual for Preventing Interference at POTWs* (U.S. EPA, 1987) and *CERCLA Site Discharges to POTWs: Guidance Manual* (U.S. EPA, 1990). Potential contamination of sewage sludge (concentrations of pollutants above the levels permitted for land application) was estimated by comparing projected pollutant concentrations in POTW sewage sludge to available EPA criteria. The *Standards for the Use or Disposal of Sewage Sludge* (40 CFR Part 503) contain limits on the concentrations of pollutants in sewage sludge that is used or disposed. For the purpose of this analysis, contamination is defined as the concentration of a pollutant in sewage sludge at or above the limits presented in 40 CFR Part 503. Model results were then extrapolated to the national level, which included 264 POTWs.

EPA evaluated pollutants for potential POTW operation inhibition and potential sewage sludge contamination. At current discharge levels, EPA projects no inhibition or sludge contamination problems at any of the POTWs at current loadings. Therefore, no further analysis of these types of impacts was performed.

C. Rail/Chemical Subcategory

1. Indirect Dischargers

EPA evaluated the potential effect on aquatic life and human health of a representative sample of 12 indirect wastewater dischargers of the 38 facilities in the Rail/Chemical Subcategory to receiving waters at current levels of treatment and at proposed pretreatment levels. These 12 modeled facilities discharge 103 modeled pollutants in wastewater to 11 POTWs, which discharge to 11 receiving streams. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria. For those chemicals for which EPA has not published water quality criteria, concentrations were compared to documented toxic effect levels (i.e., lowest reported or estimated toxic concentration). Nationwide criteria guidance were used as the most representative value. In addition, the potential benefits to human health were evaluated by estimating the potential reduction of carcinogenic risk and systemic effects from consuming contaminated fish and drinking water. Risks were also estimated for recreational and subsistence anglers and their families as well as the general population. Model results were then extrapolated to the national level.

At the national level, 38 facilities discharge wastewater to 37 POTWs, which then discharge into 37 receiving streams. Current loadings (in pounds) of the 103 pollutants evaluated for water quality impacts are reduced 46 percent by the proposed pretreatment regulatory option. EPA projects that in-stream pollutant concentrations will exceed human health criteria (for both water and organisms) in 16 receiving streams at both current and proposed pretreatment discharge levels. Since the proposed pretreatment is not expected to eliminate all occurrences of pollutant concentrations in excess of human health criteria at any of the receiving streams, no increase in value of recreational fishing to anglers is projected as a result of this pretreatment. EPA projects eight receiving streams with in-stream concentrations of four pollutants to exceed chronic aquatic life criteria or toxic effect levels at current discharge levels. Proposed pretreatment discharge levels will reduce projected excursions to three pollutants in six receiving streams. There are expected to be excursions of acute aquatic life criteria or toxic effects levels by one pollutant in six receiving streams. All of these excursions will be eliminated by the proposed pretreatment option.

The excess annual cancer cases at current pollutant loadings are projected to be much less than 0.5 from the ingestion of contaminated fish and drinking water by all populations evaluated for both the results from the representative sample and those extrapolated to the national level. Monetary value of this benefit to society is, therefore, not projected. No systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for anglers fishing the receiving streams at current discharge levels. Therefore, no further analysis of these types of impacts was performed.

2. POTWs

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the 11 modeled POTWs that receive wastewater from the rail chemical indirect subcategory. Model results were then extrapolated to the national level, which included 37 POTWs.

EPA evaluated pollutants for potential POTW operation inhibition and potential sewage sludge contamination through wastewater modeling. At current discharge levels, the EPA model projects inhibition problems at 21 of the POTWs, caused by four pollutants. At the proposed pretreatment regulatory option, EPA projects continued inhibition problems at 13 POTWs. Inhibition was prevented at eight POTWs; however, the EPA is currently unable to monetize these benefits. The Agency projects sewage sludge contamination at none of the POTWs at current loadings. Therefore, no further analysis of these types of impacts was performed.

The POTW inhibition values used in this analysis are not, in general, regulatory values. EPA based these values upon engineering and health estimates contained in guidance or guidelines published by EPA and other sources. EPA used these values to determine whether the pollutants interfere with POTW operations. The pretreatment standards proposed today are not based on these values; rather, they are based on the performance of the selected technology basis for each standard. However, the values used in this analysis help indicate the potential benefits for POTW operations that may result from the compliance with proposed pretreatment discharge levels.

D. Barge/Chemical and Petroleum Subcategory

1. Direct Dischargers

EPA evaluated the potential effect on aquatic life and human health of a representative sample of six direct wastewater dischargers of the 14 facilities in the Barge/Chemical & Petroleum Subcategory to receiving waters at current levels of treatment and at proposed pretreatment levels. These six modeled facilities discharge 60 modeled pollutants to six receiving streams. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria. For those chemicals for which EPA has not published water quality criteria, concentrations were compared to documented toxic effect levels (i.e., lowest reported or estimated toxic concentration). Nationwide criteria guidance were used as the most representative value. In addition, the potential benefits to human health were evaluated by estimating the potential reduction of carcinogenic risk and systemic effects from consuming contaminated fish and drinking water. Risks were also estimated for recreational and subsistence anglers and their families as well as the general population. Model results were then extrapolated to the national level.

At the national level, 14 facilities discharge wastewater directly to 14 receiving streams. Current loadings (in pounds) of the 60 pollutants evaluated for water quality impacts are reduced 95 percent by the proposed BAT regulatory option. EPA projects that in-stream concentrations of two pollutants will exceed human health criteria (for both water and organisms) in six receiving streams at current discharge levels. The proposed BAT regulatory option eliminates excursions of human health criteria in three of these streams. Estimates of the increase in value of recreational fishing to anglers as a result of this improvement range from $169,000 to $604,000 annually (1997 dollars). In addition, the nonuse value (e.g. option, existence, and bequest value) of the improvement is estimated to range from $84,500 to $302,000 (1997 dollars).

The excess annual cancer cases at current pollutant loadings are projected to be much less than 0.5 from the ingestion of contaminated fish and drinking water by all populations evaluated for both the results from the representative sample and those extrapolated to the national level. A monetary value of this benefit to society is, therefore, not projected. No systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for anglers fishing the 14 receiving streams at current discharge levels. Therefore, no further analysis of these types of impacts was performed.

2. Indirect Dischargers

EPA evaluated the potential effect on aquatic life and human health of a single indirect wastewater discharger (there was only one facility which received the Detailed Questionnaire, although several additional facilities were identified in the Screen Questionnaire) to receiving waters at current levels of treatment and at proposed pretreatment levels. This facility discharges 60 modeled pollutants in wastewater to a POTW, which discharges to a receiving stream. EPA predicted steady-state in-stream pollutant concentrations after complete immediate mixing with no loss from the system, and compared these levels to EPA-published water quality criteria. For those chemicals for which EPA has not published water quality criteria, concentrations were compared to documented toxic effect levels (i.e., lowest reported or estimated toxic concentration). Nationwide criteria guidance were used as the most representative value. In addition, the potential benefits to human health were evaluated by estimating the potential reduction of carcinogenic risk and systemic effects from consuming contaminated fish and drinking water. Risks were also estimated for recreational and subsistence anglers and their families as well as the general population. Model results were then extrapolated to the national level.

EPA projects that in-stream concentrations of none of the pollutants will exceed human health criteria (for both water and organisms) at current discharge levels. EPA also projects that no receiving streams will show in-stream concentrations exceeding chronic aquatic life criteria or toxic effect levels at current discharge levels. No carcinogenic effects or systemic toxicant effects (non-cancer adverse health effects such as reproductive toxicity) are projected for drinking water or ingesting fish taken from the single receiving stream at current discharge levels. Therefore, no further analysis of these types of impacts was performed.

3. POTWs

EPA also evaluated the potential adverse impacts on POTW operations (inhibition of microbial activity during biological treatment) and contamination of sewage sludge at the one POTW that receives wastewater from the barge chemical indirect subcategory. Inhibition of POTW operations (impairment of microbial activity) is estimated by comparing predicted POTW influent concentrations to available inhibition levels. Model results were not extrapolated to the national level, which included only the single POTW.

EPA evaluated pollutants for potential POTW operation inhibition and potential sewage sludge contamination. At current discharge levels, EPA projects no inhibition or sludge contamination problems at this POTW. Therefore, no further analysis of these types of impacts was performed.

XII. Non-Water Quality Impacts of Proposed Regulations

As required by sections 304(b) and 306 of the Clean Water Act, EPA has considered the non-water quality environmental impacts associated with the treatment technology options for the transportation equipment cleaning industry. Non-water quality impacts are impacts of the proposed rule on the environment that are not directly associated with wastewater. Non-water

quality impacts include changes in energy consumption, air emissions, and solid waste generation of oil and sludge. In addition to these non-water quality impacts, EPA examined the impacts of the proposed rule on noise pollution, and water and chemical use. Based on these analyses, EPA finds the relatively small increase in non-water quality impacts resulting from the proposed rule to be acceptable.

A. Energy Impacts

Energy impacts resulting from the proposed regulatory options include energy requirements to operate wastewater treatment equipment such as aerators, pumps, and mixers. However, flow reduction technologies (a component of the regulatory options) reduce energy requirements by reducing the number of operating hours per day and/or operating days per year for wastewater treatment equipment currently operated by the TEC industry. For some regulatory options, energy savings resulting from flow reduction exceed requirements for operation of additional wastewater treatment equipment, resulting in a net energy savings for these options.

EPA estimates a net increase in electricity use of approximately 6 million kilowatt hours annually for the TEC industry as a result of the proposed rule. According to the U.S. Department of Commerce, the total U.S. industrial electrical energy purchase in 1990 was approximately 756 billion kilowatt hours. EPA's proposed options would increase U.S. industrial electrical energy purchase by 0.0008 percent. Therefore, the Agency concludes that the effluent pollutant reduction benefits from the proposed technology options exceed the potential adverse effects from the estimated increase in energy consumption.

B. Air Emission Impacts

TEC facilities generate wastewater containing significant concentrations of volatile and semivolatile organic pollutants, some of which are also on the list of Hazardous Air Pollutants (HAPs) in Title 3 of the Clean Air Act Amendments of 1990. These waste streams pass through treatment units open to the atmosphere, which may result in the volatilization of organic pollutants from the wastewater.

Emissions from TEC facilities also occur when tanks are opened and cleaned, with cleaning typically performed using hot water or cleaning solutions. Prior to cleaning, tanks may be opened with vapors vented through the tank hatch and air vents in a process called gas freeing. At some facilities, tanks used to transport gases or volatile material are filled to capacity with water to displace vapors to the atmosphere or a combustion device. Some facilities also perform open steaming of tanks.

Other sources of emissions at TEC facilities include heated cleaning solution storage tanks as well as emissions from TEC wastewater as it falls onto the cleaning bay floor, flows to floor drains and collection sumps, and conveys to wastewater treatment.

In order to quantify the impact of the proposed regulation on air emissions, EPA performed a model analysis to estimate the amount of organic pollutants emitted to the air. EPA estimates the increase of air emissions at TEC facilities as a result of the proposed wastewater treatment technology to be approximately 153,000 kilograms per year of organic pollutants (volatile and semivolatile organics), which represents approximately 35 percent of the total organic pollutant wastewater load. EPA's estimate of air emissions reflects the increase in emissions at TEC facilities, and does not account for baseline air emissions that are currently being released to the atmosphere at the POTW.

EPA's model analysis was performed based on the most stringent regulatory options considered for each subcategory in order to create a ''worst case scenario'' (i.e., the more treatment technologies used, the more chance of volatilization of compounds to the air). For some subcategories, EPA is not proposing the most stringent regulatory option; therefore, for these subcategories, air emission impacts are overestimated. In addition, to the extent that facilities currently operate treatment in place, the results overestimate air emission impacts from the regulatory options. Additional details concerning EPA's model analysis to estimate air emission impacts are included in ''Estimated Air Emission Impacts of TEC Industry Regulatory Options'' in the rulemaking record.

Based on the sources of air emissions in the TEC industry and limited data concerning air pollutant emissions from TEC operations provided in response to the 1994 Detailed Questionnaire (most facilities did not provide air pollutant emissions estimates), EPA estimates that the incremental air emissions resulting from the proposed regulatory options are a small percentage of air emissions generated by TEC operations. For these reasons, air emission impacts of the regulatory options are acceptable.

C. Solid Waste Impacts

Solid waste impacts resulting from the proposed regulatory options include additional solid wastes generated by wastewater treatment technologies. These solid wastes include wastewater treatment residuals, including sludge, waste oil, spent activated carbon, and spent organo-clay.

Regulations pursuant to the Resource Conservation and Recovery Act (RCRA), require companies/facilities which generate waste (including waste generated from the cleaning of the interiors of tanks) to determine if they generate a hazardous waste (the applicable regulations are found in 40 CFR part 261). This determination is made by answering two questions: (1) Is the material a listed hazardous waste; or (2) is the material hazardous because it exhibits one of the four hazardous waste characteristics (ignitability, corrosivity, reactivity or toxicity). If the material is determined to be a hazardous waste, the waste must be managed according to the regulations found in 40 CFR parts 262–265, 268, 270, 271 and 124.

1. Wastewater Treatment Sludge

Wastewater treatment sludge is generated in two forms: dewatered sludge (or filter cake) generated by a filter press and/or wet sludge generated by treatment units such as oil/water separators, chemical precipitation/clarification, coagulation/clarification, dissolved air flotation, and biological treatment. Many facilities that currently operate wastewater treatment systems do not dewater wastewater treatment sludge. Storage, transportation, and disposal of greater volumes of un-dewatered sludge that would be generated after implementing the TEC industry regulatory options is less cost-effective than dewatering sludge on site and disposing of the greatly reduced volume of resulting filter cake. However, in estimating costs for today's proposal, EPA has included the costs for TEC facilities to install sludge dewatering equipment to handle increases in sludge generation. For these reasons, EPA estimates net decreases in the volume of wet sludge generated by the industry and net increases in the volume of dry sludge generated by the industry.

EPA estimates that the proposed rule will result in a decrease in wet sludge generation of approximately 17 million gallons per year, which represents an estimated 90 percent decrease from current wet sludge generation. In addition, EPA estimates that the proposed rule will result in an increase in dewatered sludge generation of approximately 33 thousand cubic yards per year, which represents an estimated 170 percent increase from current dewatered sludge generation.

Compliance cost estimates for the TEC industry regulatory options are based on disposal of wastewater treatment sludge in nonhazardous waste landfills. EPA sampling of sludge using the Toxicity Characteristic Leaching Procedure (TCLP) test verified the sludge as non-hazardous. Such landfills are subject to RCRA Subtitle D standards found in 40 CFR parts 257 or 258.

The Agency concludes that the effluent benefits and the reductions in wet sludge generation from the proposed technology options exceed the potential adverse effects from the estimated increase in wastewater treatment sludge generation.

2. Waste Oil

EPA estimates that compliance with the proposed regulation will result in an increase in waste oil generation at TEC sites based on removal of oil from wastewater via oil/water separation. EPA estimates that this increase in waste oil generation will be approximately 1.5 million gallons per year, which represents an estimated 122 percent increase from current waste oil generation. EPA assumes, based on responses to the detailed questionnaire, that waste oil disposal will be via oil reclamation or fuels blending on or off site. Therefore, the Agency does not estimate any adverse effects from increased waste oil generation.

3. Spent Activated Carbon

Spent activated carbon is generated by the following regulatory options:

- Truck/Chemical Subcategory—BPT Option II.
- Truck/Chemical Subcategory—PSES Option II.
- Rail/Chemical Subcategory—BPT Option III.
- Rail/Chemical Subcategory—PSES Option III.
- Truck/Petroleum Subcategory—PSES Option II.
- Rail/Petroleum Subcategory—PSES Option II.

Treatment of TEC wastewater via these technology options will generate 8,470 tons annually of spent activated carbon. EPA assumes that the spent activated carbon will be sent off site for regeneration rather than disposed of as a waste. Possible air emissions during regeneration are minimal. Therefore, the Agency does not estimate any adverse effects from activated carbon treatment technologies.

4. Spent Organo-Clay

Spent organo-clay is generated by the following options:

- Rail/Chemical Subcategory—BPT Option III.
- Rail/Chemical Subcategory—PSES Option III.

Treatment of TEC wastewater via these technology options will generate 118 tons annually of spent organo-clay. EPA assumes that the spent organo-clay will be disposed as a non-hazardous waste. The Agency concludes that the effluent benefits from the proposed technology options exceed any potential adverse effects from the generation and disposal of spent organo-clay.

XIII. Related Acts of Congress, Executive Orders, and Agency Initiatives

A. Summary of Public Participation

During all phases of developing the proposed rule, EPA sought to maintain communications with the regulated community and other interested parties. The Agency met with representatives from the industry, the National Tank Truck Carriers (NTTC), the Railway Progress Institute, and the National Shipyard Association (formerly the American Waterways Shipyard Conference). In addition, NTTC and the National Shipyard Association set up the earliest site visits for EPA staff at TECI facilities. All three trade associations provided comments and suggestions on the industry screener and detailed questionnaires prior to distribution to the industry. EPA also attended six NTTC conferences in between 1994 and 1997 to provide information on the progress of the rule to the industry, to provide assistance to the industry in completing the detailed questionnaire, and to obtain information related to industry trends.

Because most (approximately 95 percent) of the facilities in the TECI are indirect dischargers, the Agency has made a concerted effort to consult with State and local entities that will be responsible for implementing the regulation. EPA has spoken with pretreatment coordinators from around the nation and discussed the technology options with these pretreatment coordinators.

In addition, on May 8, 1997, EPA sponsored a public meeting, where the Agency presented information about the content and the status of the proposed regulation. The meeting was announced in the **Federal Register**, and agendas and meeting materials were distributed at the meeting. The public meeting also gave interested parties an opportunity to provide information, data, and ideas on key issues to the Agency. EPA's intent in conducting the public meeting was to elicit input that would improve the quality of the proposed regulation. At the public meeting the Agency clarified that the public meeting would not replace the notice and comment process, nor would the meeting become a mechanism for a negotiated rulemaking. While EPA promised to accept information and data at the meeting and make good faith efforts to review all information and address all issues discussed at the meeting, EPA could not commit to fully assessing and incorporating all comments into the proposal. EPA will assess all comments and data received at the public meeting prior to promulgation.

B. Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA generally is required to conduct an initial regulatory flexibility analysis (IRFA) describing the impact of the proposed rule on small entities. Under section 605(b) of the RFA, if the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare an IRFA.

Based on its preliminary assessment of the economic impact of regulatory options being considered for the proposed rule, EPA had concluded that the proposal might significantly affect a substantial number of small entities. Accordingly, EPA prepared an IRFA pursuant to section 603(b) of the RFA addressing:

- The need for, objectives of, and legal basis for the rule;
- A description of, and where feasible, an estimate of the number of small entities to which the rule would apply;
- The projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that would be subject to the requirements and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule;
- A description of any significant regulatory alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of the CWA, the analysis discusses significant alternatives such as—

(1) Establishing differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) The use of performance rather than design standards; and

(4) An exclusion from coverage of the rule, or any part thereof, for such small entities.

The IRFA is presented in Chapter VI of the EA and summarized in Section X.C.4 of this notice. EPA's analysis indicates that no small businesses would close as a result of the proposed effluent guideline. Using two sets of assumptions related to the ability of a business to pass the additional costs to customers, EPA projects that either 75 or 50 small businesses would incur costs exceeding one percent of revenues and 64 or 17 small businesses would incur costs exceeding three percent of revenues. Based on the data presented in the IRFA, EPA now believes that the proposal, if promulgated, may not have a significant economic impact on a substantial number of small entities. Consequently, there is a possibility, after evaluation of comments and data received in response to today's proposal, that the Agency may not be required to prepare a final regulatory flexibility analysis.

Nonetheless, EPA convened a Small Business Advocacy Review (SBAR) Panel on July 17, 1997, in compliance with the RFA, as amended by SBREFA. The Panel was comprised of representatives from three federal agencies: EPA, the Small Business Administration, and the Office of Management and Budget. The Panel reviewed materials EPA prepared in connection with the IRFA, and collected the advice and recommendations of small entity representatives. For this proposed rule, the small entity representatives included trade association officials from the National Tank Truck Carriers, Railway Progress Institute, Short Line Railroad Association, National Shipyard Association, The Association of Container Reconditioners and National Oil Recovery Association. The Panel prepared a report (available in the public docket for this rulemaking) that summarizes its outreach to small entities and the comments submitted by the small entity representatives. The Panel's report also presents their findings on issues related to the elements of an IRFA and recommendations regarding the rulemaking.

In addition to the activities discussed in XIII.A, EPA and the other members of the Panel sought to gather small business advice and recommendations by meeting and consulting with the small entity representatives listed above. On July 2, 1997, EPA convened a meeting for the small entity representatives to describe EPA's regulatory process and alternative technology options for the TEC effluent guideline. While the Panel was in session, they met with the small entity representatives, provided more than 200 pages of analysis results and background information to the small entity representatives, and carefully reviewed the written comments submitted by the small entity representatives.

Some of the key issues discussed by the Panel and the small entity representatives were potential exclusions for small businesses. EPA, through extensive analysis and documentation for the Panel members and the small entity representatives, supported this effort to identify regulatory alternatives that would minimize the economic impacts on small businesses while preserving the environmental benefits associated with the treatment technologies. EPA evaluated alternative breakpoints in four variables (flow, employment, annual revenue, and number of tanks cleaned) to determine possible exclusions for small entities. For numerous potential exclusion scenarios, EPA provided comparisons of financial characteristics, economic impacts, and pollutant loadings. The Agency also provided background information on the engineering models, compliance cost calculations, pollutant loadings estimations, financial models, and economic impact methodologies. Thus, EPA provided to the Panel and the small entity representatives a thorough description of the data and techniques, thereby facilitating the Panel's task to prepare and submit recommendations to EPA's Administrator.

Throughout this notice the Agency has discussed issues raised by the Panel and the small entity representatives, and has attempted to address the recommendations made to EPA's Administrator. Specifically, as recommended by the Panel, EPA has solicited data and comment on the following: the population of affected facilities; the cost models and assumptions; alternative treatment technologies not considered by EPA; the subcategorization approach, and specifically on an alternative regulatory approach that would establish a separate subcategory for any facility which accepts tanks containing pesticide-containing cargos; the cost-effectiveness of removing non-pesticide chemicals, and information on the impacts to receiving streams and POTWs by non-pesticide pollutants; approaches for minimizing the regulatory impacts for small facilities; pollutant loads associated with IBC cleaning wastewater; the economic methodologies and assumptions; and the burdens associated with compliance of the Clean Air Act for barge facilities.

Additionally, as recommended by the Panel, EPA has included a clear discussion on the following: the monitoring frequency used in determining limits and associated costs of compliance; a discussion of the costs, impacts, and the technology options considered for proposal; and the reasons for the apparent discrepancy in the levels of treatment technology proposed for the Truck/Chemical Subcategory and the Rail/Chemical Subcategory. Additionally, EPA has clearly described its intention for coverage for those facilities potentially affected by more than one Clean Water Act effluent guideline, and has documented all cost models, costing assumptions, and cost projections in the Technical Development Document and the regulatory record.

There are several instances where the Agency has re-evaluated earlier thinking based on comments received from the Panel and the small entity representatives. At times, the Panel produced supporting data which was used to re-evaluate certain aspects of what EPA intended to propose. For example, after small entity representatives provided the Agency with additional information on the cleaning of IBCs, the Agency decided not to include facilities which clean IBCs within the scope of this proposed rule. In other instances, where the Agency has received comments from a Panel member or a small entity representative, but has not received data that would support changing the scope of the proposal or requirements contained therein, EPA has identified these areas of concern in today's notice and has solicited comment from the regulated community, permit writers, POTW operators and other stakeholders.

C. Executive Order 12866 (OMB Review)

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant

regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action''. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local or tribal governments, in the aggregate, or the private sector in any one year. The total cost of the rule is not expected to exceed $23 million (1997$) in any given year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and thus this rule is not subject to the requirement of section 203 of UMRA. EPA recognizes that small governments may own or operate POTWs that will need to enter into pretreatment agreements with the indirect dischargers of the TEC industry that would be subject to this proposed rule. However, the costs of this are expected to be minimal. Additionally, the additional requirements of today's proposal are not unique because POTWs must enter into pretreatment agreements for all significant industrial users and all industrial facilities regulated under categorical standards of the Clean Water Act.

E. Paperwork Reduction Act

The proposed transportation equipment cleaning effluent guidelines and pretreatment standards contain no information collection activities and, therefore, no information collection request will be submitted to OMB for review under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

F. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (''NTTAA''), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

EPA is not proposing any new analytical test methods as part of today's proposed effluent limitations guidelines and standards. The Agency does not believe that this proposed rule addresses any technical standards subject to the NTAA. A commenter who disagrees with this conclusion should indicate how the notice is subject the Act and identify any potentially applicable voluntary consensus standards.

G. The Edible Oil Regulatory Reform Act

The Edible Oil Regulatory Reform Act, Public Law 104–55, requires most federal agencies to differentiate between and establish separate classes for (1) animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin and (2) other greases and oils, including petroleum, when issuing or enforcing any regulation or establishing any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil or grease.

The Agency believes that vegetable oils and animal fats pose similar types of threats to the environment as petroleum oils when spilled to the environment (62 FR 54508, Oct. 20, 1997).

The deleterious environmental effects of spills of petroleum and non-petroleum oils, including animal fats and vegetable oils, are produced through physical contact and destruction of food sources (via smothering or coating) as well as toxic contamination (62 FR 54511). However, the permitted discharge of TEC process wastewater containing residual and dilute quantities of petroleum and non-petroleum oils is significantly different than an uncontrolled spill of pure petroleum or non-petroleum oil products.

EPA has grouped facilities which clean transportation equipment that carry vegetable oils or animal fats as cargos into separate subcategories (food) from those facilities that clean equipment that had carried petroleum products for the following reasons.

First, food grade and petroleum facilities operate different tank interior cleaning processes and unique water use practices. Food grade cleaning processes are typically performed using computer operated and controlled dedicated stainless steel washing systems which regulate flow rate, pressure, temperature, and cleaning sequence duration. Final water rinses

are performed using fresh rather than recycled water. In contrast, petroleum facilities comprise approximately 70 percent of all facilities that practice 100 percent recycle/reuse of TEC process wastewater to TEC processes. In addition, 43 percent of food grade facilities use chemical cleaning solutions such as caustic or detergent as compared to only four percent of petroleum facilities.

Second, food grade and petroleum facilities generate TEC wastewater with different characteristics. Both petroleum and non-petroleum oils are comprised of hydrocarbon mixtures. However, petroleum oils contain alkanes, cycloalkanes, and aromatic hydrocarbons of which many are included in EPA's list of priority pollutants. In contrast, vegetable oils and animal fats contain esters of glycerol and fatty acids which are not included in EPA's list of priority pollutants and are relatively non-toxic in dilute concentrations. In addition, food grade facilities generate from 4 to 14 times more wastewater per tank cleaning on average than petroleum facilities. These differences in cargo composition, together with differences in cleaning processes and water use, result in the generation of TEC wastewater which differs significantly in volume, pollutants generated, and pollutant concentration.

In spite of the relatively high toxicity of TEC wastewater generated by petroleum facilities as compared to food grade facilities, less than one percent of the tanks cleaned in the TECI are petroleum tanks cleaned by direct dischargers. Additionally, less than one percent of wastewater generated by the TECI is generated by direct dischargers cleaning petroleum tanks. Because very few pounds of toxic pollutants are being discharged by facilities in the Truck/Petroleum and Rail/Petroleum Subcategories, EPA preliminarily concluded that no nationally applicable limitations should be established for these subcategories.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that (1) is likely to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns environmental health or safety risk that the Agency has reason to believe may have a disproportionate effect on children. If a regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' because this is not an ''economically significant'' regulatory action as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

XIV. Regulatory Implementation

A. Applicability

Today's proposal represents EPA's best judgment at this time as to the appropriate technology-based effluent limits for the TEC industry. These effluent limitations and standards, however, may change based on comments received on this proposal, and subsequent data submitted by commentors or developed by the Agency. Therefore, while the information provided in the Technical Development Documents may provide useful information and guidance to permit writers in determining best professional judgment permit limits for TEC facilities, the permit writer will still need to justify any permit limits based on the conditions at the individual facility.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of waste streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR 122.41(m) and (n).

C. Variances and Modifications

The CWA requires application of the effluent limitations established pursuant to Section 301 or the pretreatment standards of Section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of national effluent limitations guidelines and pretreatment standards for categories of existing sources for priority toxic, conventional and non-conventional pollutants.

1. Fundamentally Different Factors Variances

EPA may develop effluent limitations or standards different from the otherwise applicable requirements if an individual existing discharging facility is fundamentally different with respect to factors considered in establishing the limitation or standards applicable to the individual facility. Such a modification is known as a ''fundamentally different factors'' (FDF) variance.

Early on, EPA, by regulation, provided for FDF modifications from BPT effluent limitations, BAT limitations for priority toxic and non-conventional pollutants and BCT limitation for conventional pollutants for direct dischargers. For indirect dischargers, EPA provided for FDF modifications from pretreatment standards for existing facilities. FDF variances for priority toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. (*Chemical Manufacturers Ass'n* v. *NRDC*, 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added new Section 301(n) of the Act explicitly to authorize modification of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in Section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under Section 301(n), an application for approval of FDF variance must be based solely on (1) information submitted during the rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR part 125, subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for existing direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (e.g., volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of

one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (e.g., infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for existing indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of Section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by EPA in establishing the applicable guidelines. The pretreatment regulation incorporate a similar requirement at 40 CFR 403.13(h)(9).

An FDF variance is not available to a new source subject to NSPS or PSNS.

2. Permit Modifications

Even after EPA (or an authorized State) has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered in several circumstances. These could include a regulatory inspection or information submitted by the permittee that reveals the need for modification. Any interested person may request modification of a permit be made. There are two classifications of modifications: major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually any modifications that results in less stringent conditions is treated as a major modification, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described in 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described in 40 CFR 122.63.

3. Removal Credits

The CWA establishes a discretionary program for POTWs to grant ''removal credits'' to their indirect dischargers. This credit in the form of a less stringent pretreatment standard, allows an increased concentration of a pollutant in the flow from the indirect discharger's facility to the POTW (*See* 40 CFR 403.7). EPA has promulgated removal credit regulations as part of its pretreatment regulations.

The following discussion provides a description of the existing removal credit regulations. However, EPA is considering proposing a rule which would expand the universe of pollutants for which removal credits may be authorized. Under EPA's existing pretreatment regulations, the availability of a removal credit for a particular pollutant is linked to the POTW method of using or disposing of its sewage sludge. The regulations provide that removal credits are only available for certain pollutants regulated in EPA's 40 CFR part 503 sewage sludge regulations (58 FR 9386). The pretreatment regulations at 40 CFR part 403 provide that removal credits may be made potentially available for the following pollutants:

(1) If a POTW applies its sewage sludge to the land for beneficial uses, disposes of it on surface disposal sites or incinerates it, removal credits may be available, depending on which use or disposal method is selected (so long as the POTW complies with the requirements in Part 503). When sewage sludge is applied to land, removal credits may be available for ten metals. When sewage sludge is disposed of on a surface disposal site, removal credits may be available for three metals. When the sewage sludge is incinerated, removal credits may be available for seven metals and for 57 organic pollutants (40 CFR 403.7(a)(3)(iv)(A)).

(2) In addition, when sewage sludge is used on land or disposed of on a surface disposal site or incinerated, removal credits may also be available for additional pollutants so long as the concentration of the pollutant in sludge does not exceed a concentration level established in Part 403. When sewage sludge is applied to land, removal credits may be available for two additional metals and 14 organic pollutants. When the sewage sludge is disposed of on a surface disposal site, removal credits may be available for seven additional metals and 13 organic pollutants. When the sewage sludge is incinerated, removal credits may be available for three other metals (40 CFR 403.7(a)(3)(iv)(B)).

(3) When a POTW disposes of its sewage sludge in a municipal solid waste landfill (MSWLF) that meets the criteria of 40 CFR Part 258, removal credits may be available for any pollutant in the POTW's sewage sludge (40 CFR 403.7(a)(3)(iv)(C)). Thus, given compliance with the requirements of EPA's removal credit regulations,[2] following promulgation of the pretreatment standards being proposed today, removal credits may be authorized for any pollutant subject to pretreatment standards if the applying POTW disposes of its sewage sludge in a MSWLF that meets the requirements of 40 CFR part 258. If the POTW uses or disposes of its sewage sludge by land application, surface disposal or incineration, removal credits may be available for the following metal pollutants (depending on the method of use or disposal): arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, nickel, selenium and zinc. Given compliance with Section 403.7, removal credits may be available for the following organic pollutants (depending on the method of use or disposal) if the POTW uses or disposes of its sewage sludge: benzene, 1,1-dichloroethane, 1,2-dibromoethane, ethylbenzene, methylene chloride, toluene, tetrachloroethene, 1,1,1-trichloroethane, 1,1,2-trichloroethane and trans-1,2-dichloroethene.

Some facilities may be interested in obtaining removal credit authorization for other pollutants being considered for regulation in this rulemaking for which removal credit authorization would not otherwise be available under part 403. Under Sections 307(b) and 405 of the CWA, EPA may authorize removal credits only when EPA determines that, if removal credits are authorized, that the increased discharges of a pollutant to POTWs resulting from removal credits will not affect POTW sewage sludge use or disposal adversely. As discussed in the preamble to amendments to Part 403 regulations (58 FR 9382–9383), EPA has interpreted these sections to authorize removal credits for a pollutant only in one of two circumstances. Removal credits may be authorized for any categorical pollutant (1) for which EPA have established a numerical pollutant limit in Part 503; or (2) which EPA has determined will not threaten human health and the environment when used or disposed in sewage sludge. The pollutants described in paragraphs (1)–(3) above include all

[2] Under § 403.7, a POTW is authorized to give removal credits only under certain conditions. These include applying for, and obtaining, approval from the Regional Administrator (or Director of a State NPDES program with an approved pretreatment program), a showing of consistent pollutant removal and an approved pretreatment program. *See* 40 CFR 403.7(a)(3)(i), (ii), and (iii).

those pollutants that EPA either specifically regulated in Part 503 or evaluated for regulation and determined would not adversely affect sludge use and disposal.

EPA is considering a proposal amending Part 403 to make removal credits available for those pollutants that are not now listed in Appendix G as eligible for removal credits provided a POTW seeking removal credit authority studies the impact that granting removal credits would have on the concentration of the pollutant in the POTW's sewage sludge and establishes that the pollutants will not interfere with sewage sludge use or disposal. These changes would provide POTWs and their industrial users with additional opportunities to use removal credits to efficiently allocate treatment.

The proposal would address the availability of removal credits for pollutants for which EPA has not developed a Part 503 pollutant limit or determined through a national study a concentration for the pollutant in sewage sludge below which public health and the environment are protected when the sewage sludge is used or disposed. Because EPA is only considering two additional pollutants for regulation under Part 503, the proposal would provide a mechanism for evaluating other pollutants for removal credit purposes. As noted above, EPA has interpreted the Court's decision in *NRDC* v. *EPA* as only allowing removal credits for a pollutant if EPA had either regulated the pollutant or established a concentration of the pollutant in sewage sludge below which public health and the environment are protected when sewage sludge is used or disposed. The proposal would allow the POTW to perform the study that would establish that allowable concentration. The POTW analysis would need to establish that the granting of removal credits will not increase the level of pollutants in the POTW's sewage sludge to a level that would fail to protect public health and the environment from reasonably anticipated adverse effects of the pollutant.

D. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements

Effluent limitations act as a primary mechanism to control the discharges of pollutants to waters of the United States. These limitations are applied to individual facilities through NPDES permits issued by EPA or authorized States under Section 402 of the Act.

The Agency has developed the limitations and standards for this proposed rule to cover the discharge of pollutants for this industrial category. In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this proposed regulation. In addition, if State water quality standards or other provisions of State or Federal Law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants) the permitting authority must apply those limitations.

Working in conjunction with the effluent limitations are the monitoring conditions set out in a NPDES permit. An integral part of the monitoring conditions is the point at which a facility must monitor to demonstrate compliance. The point at which a sample is collected can have a dramatic effect on the monitoring results for that facility. Therefore, it may be necessary to require internal monitoring points in order to ensure compliance. Authority to address internal waste streams is provided in 40 CFR 122.44(i)(1)(iii) and 122.45(h). Permit writers may establish additional internal monitoring points to the extent consistent with EPA's regulations.

Another important component of the monitoring requirements established by the permitting authority is the frequency at which monitoring is required. In costing the various technology options for the TEC industry, EPA assumed monthly monitoring for toxic priority and nonconventional pollutants and weekly monitoring for conventional pollutants. For this reason, the proposed daily and monthly limitations for toxic priority and nonconventional pollutants are the same. These monitoring frequencies may be lower than those generally imposed by some permitting authorities, but EPA believes these reduced frequencies are appropriate due to the relative costs of monitoring when compared to the estimated costs of complying with the proposed limitations. This issue was also discussed by the Small Business Advocacy Panel. In the Panel report, EPA indicated its intention to issue guidance to local permitting authorities recommending that they use the reduced monitoring frequencies when issuing permits to facilities in this industry and explaining the rationale for the recommended frequencies.

E. Best Management Practices (BMPs)

Section 304(e) of the Act authorizes the Administrator to prescribe ''best management practices'' (BMPs). EPA may develop BMPs that apply to all industrial sites or to a designated industrial category and may offer guidance to permit authorities in establishing management practices required by unique circumstances at a given plant. Dikes, curbs, and other control measures are being used at some TEC sites to contain leaks and spills as part of good ''housekeeping'' practices. However, on a facility-by-facility basis a permit writer may choose to incorporate BMPs into the permit.

XV. Solicitation of Data and Comments

A. Introduction and General Solicitation

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address any perceived deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data.

The Agency invites all parties to coordinate their data collection activities with EPA to facilitate mutually beneficial and cost-effective data submissions. EPA is interested in participating in study plans, data collection and documentation. Please refer to the ''For Further Information'' section at the beginning of this preamble for technical contacts at EPA.

To ensure that EPA can read, understand and therefore properly respond to comments, the Agency would prefer that commenters cite, where possible the paragraph(s) or sections in the notice or supporting documents to which each comment refers. Commenters should use a separate paragraph for each issue discussed. Please submit an original and two copies of your comments and enclosures (including references).

Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments and data will also be accepted on disks in WordPerfect format or ASCII file format.

Comments may also be filed electronically to ''Tinger.John@epamail.epa.gov''. Electronic comments must be submitted as an ASCII or Wordperfect file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W–97–25 and may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent via e-mail.

B. Specific Data and Comment Solicitations

EPA has solicited comments and data on many individual topics throughout this preamble. The Agency incorporates

each and every such solicitation here, and reiterates its interest in receiving data and comments on the issues addressed by those solicitations. In addition, EPA particularly requests comments and data on the following issues:

1. EPA is soliciting comment and data on the pollutant loads associated with IBC cleaning wastewater, and on the initial decision not to include IBC wastewater within the scope of this guideline. (Refer to Section III)

2. EPA is soliciting comment from any industrial site which has the potential to be covered by TEC and MP&M but is uncertain as to their appropriate classification. EPA is also soliciting comment from permitting authorities as to whether the approach outlined above will result in easier, or more difficult, implementation of the TEC and MP&M regulations, and on alternative applicability approaches. (Refer to Section III)

3. The Agency solicits comment and sources of data which may provide additional information on the population of affected facilities. (Refer to Section V)

4. EPA solicits comment on the appropriateness of the proposed subcategorization approach which addresses the complexities inherent in this industry, and on other subcategorization approaches which may be appropriate. (Refer to Sections III and VI)

5. The Agency solicits comment from permitting authorities and affected facilities on implementation and applicability issues surrounding the proposed subcategorization approach. (Refer to Sections III and VI)

6. EPA solicits comment on the difficulty of defining petroleum and chemical products from a regulatory standpoint. (Refer to Sections III and VI)

7. The Agency is soliciting comment and data on the preliminary conclusion that the Truck/Chemical and Truck/Petroleum Subcategories; and Rail/Chemical and Rail/Petroleum Subcategories, should not be combined. (Refer to Sections III and VI)

8. EPA is soliciting comment and data on an alternative subcategorization approach that would combine the petroleum and chemical subcategories. (Refer to Sections III and VI)

9. The Agency solicits comment on an alternative regulatory approach that would establish a subcategory for any facility which accepts tanks containing pesticide-containing cargos for cleaning, and on the cost-effectiveness of removing non-pesticide chemicals, and information on the impacts to receiving streams and POTWs by these pollutants. (Refer to Section VI)

10. EPA solicits comment on the hierarchy of applicability that EPA is proposing as the basis for subcategorization. (Refer to Section VI)

11. The Agency solicits comment on alternative treatment technologies not considered by EPA which may attain similar treatment removal efficiencies but that may be less expensive to install and operate. (Refer to Section VIII.B)

12. The Agency solicits data which can either substantiate or refute its tentative conclusions regarding raw wastewater from Truck/Petroleum and Rail/Petroleum Subcategories, and also any data which characterizes pollutants present in wastewaters from these facilities. EPA solicits data and comments which may support or refute the Agency's conclusion that wastewater generated in the petroleum subcategories does not contain significant toxic loadings. (Refer to Sections III and VIII.B)

13. The Agency solicits data which can either substantiate or refute its tentative conclusions regarding raw wastewater from hopper facilities, and also any data which characterizes pollutants present in wastewaters from these facilities. EPA solicits comments on the appropriateness of not regulating hopper facilities. EPA also solicits data on pollutant levels in wastewater from hopper facilities. (Refer to Sections III and VIII.B)

14. The Agency solicits comment on the cost and effectiveness of flow reduction and oil/water separation as an option for indirect dischargers in the Truck/Chemical Subcategory.

15. For PSNS in the Barge/Chemical & Petroleum Subcategory, EPA is soliciting comment on the technology selected as the basis for regulation. Specifically, EPA solicits comments and data which would support or refute the assumption that a POTW may accept effluent, without causing pass-through or interference, that has not been treated biologically.(Refer to Section VIII.B)

16. EPA solicits comments on the appropriateness of the pollutants selected for regulation, including the decision to establish effluent limitations for metals using modeled treatment systems not specifically designed for metals control. The Agency also solicits data which will support or refute the ability of TEC facilities to meet the proposed effluent limitations using the modeled treatment systems. (Refer to Section VIII.C)

17. The Agency solicits comments on the cost models and the assumptions used to project the cost of compliance to the industry as a result of today's proposed regulation. (Refer to Section IX)

18. EPA solicits comment on the economic methodologies described in today's proposal. In particular, the Agency requests comment on the assumptions used in the analyses. (Refer to Section X)

19. The Agency solicits information available that could be useful to determining an approach for minimizing the regulatory impacts for small facilities. (Refer to Sections III, X, and XIII.A)

20. EPA solicits comments on changes in the economic/financial condition of facilities in the Barge/Chemical & Petroleum Subcategory affected by the Clean Air Act National Emission Standards for Ship Building and Ship Repair (Surface Coating) promulgated in 1995. (Refer to Section X.C)

XVI. Guidelines for Comment Submission of Analytical Data

EPA requests that commentors to today's proposed rule submit analytical, flow, and production data to supplement data collected by the Agency during the regulatory development process. To ensure that commentor data may be effectively evaluated by the Agency, EPA has developed the following guidelines for submission of data.

A. Types of Data Requested

EPA requests paired influent and effluent treatment data for each of the technologies identified in the technology options, as well as any additional technologies applicable to the treatment of TEC waste waters. This includes end-of-pipe treatment technologies, heel management practices, and water conservation technologies. Submission of effluent data only is not sufficient for full analysis; the corresponding influent data must be provided.

For submissions of paired influent and effluent treatment data, a minimum of four days of data are required for EPA to assess variability. Submissions of paired influent and effluent treatment data should include: a process diagram of the treatment system; treatment chemical addition rates; sampling point locations; sample collection dates; influent and effluent flow rates for each treatment unit during the sampling period; sludge or waste oil generation rates; a brief discussion of the treatment technology sampled; and a list of unit operations contributing to the sampled wastestream. EPA requests data for systems that are treating only process waste water. Systems treating non-process waste water (e.g., sanitary waste

water or non-contact cooling water) will not be evaluated by EPA. If available, information on capital cost, annual (operation and maintenance) cost, and treatment capacity should be included for each treatment unit within the system.

B. Analytes Requested

EPA considered for regulation under the TEC category 330 metal, organic, conventional, and other nonconventional pollutant parameters detected in TEC process wastewater. Based on analytical data collected by the Agency, 180 pollutant parameters were identified as TEC ''pollutants of concern''. Complete lists of pollutant parameters considered for regulation and pollutants of concern (as well as the criteria used to identify each of these pollutant parameters) are available in the Technical Development Document for this proposal. The Agency requests analytical data for any of the pollutants of concern and for any other pollutant parameters which commentors believe are of concern in the TEC industry. Commentors should use these methods or equivalent methods for analyses, and should document the method used for all data submissions.

C. Quality Assurance/ Quality Control (QA/QC) Requirements

Today's proposed regulations were based on analytical data collected by EPA using rigorous QA/QC checks. These QA/QC checks include procedures specified in each of the analytical methods, as well as procedures used for the TEC sampling program in accordance with EPA sampling and analysis protocols. The Agency requests that submissions of analytical data include documentation that QA/QC procedures similar to those listed below were observed.

EPA followed the QA/QC procedures specified in the analytical methods listed in Table 10. These QA/QC procedures include sample preservation and the use of method blanks, matrix spikes, matrix spike duplicates, laboratory duplicate samples, and Q standard checks (e.g., continuing calibration blanks). EPA requests that sites provide detection limits for all non-detected pollutants. EPA also requests that composite samples be collected for all flowing waste water streams (except for analyses requiring grab samples, such as oil and grease), sites collect and analyze 10% field duplicate samples to assess sampling variability, and sites provide data for equipment blanks for volatile organic pollutants when automatic compositors are used to collect samples.

TABLE 10.—EPA ANALYTICAL METHODS FOR USE WITH TEC

Parameter	EPA method	Sample type
Metals	1620	Composite/Grab.
Volatile Organics	1624C	Grab.
Semivolatile Organics	1625C	Composite/Grab.
pH	150.1	Composite/Grab.
Total Dissolved Solids (TDS)	160.1	Composite/Grab.
Total Suspended Solids (TSS)	160.2	Composite/Grab.
Chloride, Fluoride, and Sulfate	300.0, 325.2 or 325.3, 340.2, and 375.4	Composite/Grab.
Cyanide, Total	335.3	Grab.
Nitrogen, Ammonia	350.2	Composite/Grab.
Phosphorus, Total	365.4	Composite/Grab.
Chemical Oxygen Demand	410.1 or 410.2	Composite/Grab.
Hexavalent Chromium	218.4	Composite/Grab.
Biochemical Oxygen Demand	405.1	Composite/Grab.
Total Organic Carbon	415.1	Composite/Grab.
Dioxins and Furans	1613A	Composite/Grab.
Organo-Halide Pesticides	1656	Composite/Grab.
Organo-Phosphorus Pesticides	1657	Composite/Grab.
Phenolics, Total Recoverable	420.1 or 420.2	Composite/Grab.
Phenoxy-Acid Herbicides	1658	Composite/Grab.
Oil and Grease and Total Petroleum Hydrocarbons (Hexane Extractable Materials and Silica Gel Treated Hexane Extractable Materials).	1664	Grab.

Appendix A: Definitions, Acronyms, and Abbreviations Used in This Notice

AGENCY—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable, as described in Sec. 304(b)(2) of the CWA.

BCT—The best conventional pollutant control technology, as described in Sec. 304(b)(4) of the CWA.

BOD_5—Five Day Biochemical Oxygen Demand. A measure of biochemical decomposition of organic matter in a water sample. It is determined by measuring the dissolved oxygen consumed by microorganisms to oxidize the organic matter in a water sample under standard laboratory conditions of five days and 70° C, see Method 405.1. BOD_5 is not related to the oxygen requirements in chemical combustion.

BMP—Best Management Practice—Section 304(e) of the CWA gives the Administrator the authority to publish regulations to control plant site runoff, spills, or leaks, sludge or waste disposal, and drainage from raw material storage.

BPT—The best practicable control technology currently available, as described in Sec. 304(b)(1) of the CWA.

CARGO—Any chemical, material, or substance transported in a tank truck, closed-top hopper truck, intermodal tank container, rail tank car, closed-top hopper rail car, inland tank barge, closed-top inland hopper barge, ocean/sea tanker, or a similar tank that comes in direct contact with the chemical, material, or substance. A cargo may also be referred to as a commodity.

CLOSED-TOP HOPPER BARGE—A self-or non-self-propelled vessel constructed or adapted primarily to carry dry commodities or cargos in bulk through inland rivers and waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. Closed-top inland hopper barges are not designed to carry liquid commodities or cargos and are typically used to transport corn, wheat, soy beans, oats, soy meal, animal pellets, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. The basic types of tops on closed-top inland hopper barges are telescoping rolls, steel lift covers, and fiberglass lift covers.

CLOSED-TOP HOPPER RAIL CAR—A completely enclosed storage vessel pulled by a locomotive that is used to transport dry bulk commodities or cargos over railway access lines. Closed-top hopper rail cars are not designed or contracted to carry liquid commodities or cargos and are typically used to transport grain, soybeans, soy meal, soda

ash, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. Closed-top hopper rail cars are typically divided into three compartments, carry the same commodity or cargo in each compartment, and are generally top loaded and bottom unloaded. The hatch covers on closed-top hopper rail cars are typically longitudinal hatch covers or round manhole covers.

CLOSED-TOP HOPPER TRUCK—A motor-driven vehicle with a completely enclosed storage vessel used to transport dry bulk commodities or cargos over roads and highways. Closed-top hopper trucks are not designed or constructed to carry liquid commodities or cargos and are typically used to transport grain, soybeans, soy meal, soda ash, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. Closed-top hopper trucks are typically divided into three compartments, carry the same commodity or cargo in each compartment, and are generally top loaded and bottom unloaded. The hatch covers used on closed-top hopper trucks are typically longitudinal hatch covers or round manhole covers. Closed-top hopper trucks are also commonly referred to as dry bulk hoppers.

COD—Chemical oxygen demand—A bulk parameter that measures the oxygen-consuming capacity of refractory organic and inorganic matter present in water or wastewater. COD is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test, see Method 410.1.

COMMODITY—Any chemical, material, or substance transported in a tank truck, closed-top hopper truck, intermediate bulk container, rail tank car, closed-top hopper rail car, inland tank barge, closed-top inland hopper barge, ocean/sea tanker, or similar tank that comes in direct contact with the chemical, material, or substance. A commodity may also be referred to as a cargo.

CONSIGNEE—Customer or agent to whom commodities or cargos are delivered.

CONVENTIONAL POLLUTANTS—The pollutants identified in Sec. 304(a)(4) of the CWA and the regulations thereunder (biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, fecal coliform, and pH).

CWA—CLEAN WATER ACT—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended, inter alia, by the Clean Water Act of 1977 (Public Law 95–217) and the Water Quality Act of 1987 (Public Law 100–4).

CWT—Centralized Waste Treaters Effluent Guideline.

DIRECT DISCHARGE—A facility that conveys or may convey untreated or facility-treated process wastewater or nonprocess wastewater directly into waters of the United States, such as rivers, lakes, or oceans. (See United States Surface Waters definition.)

DISCHARGE—The conveyance of wastewater: (1) to United States surface waters such as rivers, lakes, and oceans, or (2) to a publicly-owned, privately-owned, federally-owned, combined, or other treatment works.

DRUM—A metal or plastic cylindrical container with either an open-head or a tight-head (also known as bung-type top) used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the container interior. Drums typically range in capacity from 30 to 55 gallons.

EFFLUENT—Wastewater discharges.

EFFLUENT LIMITATION—Any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean. (CWA Sections 301(b) and 304(b).)

FACILITY-SPECIFIC LONG-TERM AVERAGE—Either an arithmetic average or the expected value of the distribution of daily samples, depending on the number of total samples and the number of detected samples for that pollutant at that facility.

FACILITY-SPECIFIC MONTHLY VARIABILITY FACTOR—The ratio of the estimated 95th percentile of the distribution of the monthly pollutant concentration values divided by the expected value of the distribution of monthly values.

FACILITY-SPECIFIC VARIABILITY FACTOR—The ratio of the estimated 99th percentile of the distribution of the daily pollutant concentration values divided by the expected value of the distribution of daily values.

FDF—FUNDAMENTALLY DIFFERENT FACTOR—Section 301(n) of the Water Quality Act of 1987. This section authorizes modification of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified at 40 CFR 403.13.

FOOD GRADE CARGO—Food grade cargos include edible and non-edible food products. Specific examples of food grade products include but are not limited to: alcoholic beverages, animal by-products, animal fats, animal oils, caramel, caramel coloring, chocolate, corn syrup and other corn products, dairy products, dietary supplements, eggs, flavorings, food preservatives, food products that are not suitable for human consumption, fruit juices, honey, lard, molasses, non-alcoholic beverages, salt, sugars, sweeteners, tallow, vegetable oils, vinegar, and water.

FRACTION-LEVEL VARIABILITY FACTOR—The median of group-level variability factors for the groups within each fraction.

GROUP-LEVEL VARIABILITY FACTOR—The median of all calculable pollutant variability factors for the pollutants within each group.

HEEL—Any material remaining in a tank or container following unloading, delivery, or discharge of the transported cargo. Heels may also be referred to as container residue, residual materials or residuals.

HEXANE EXTRACTABLE MATERIAL (HEM)—A method-defined parameter that measures the presence of relatively nonvolatile hydrocarbons, vegetable oils, animal fats, waxes, soaps, greases, and related materials that are extractable in the solvent n-hexane. The analytical method for Oil and Grease is currently being revised to allow for the use of normal hexane in place of freon 113, a chlorofluorocarbon (CFC). Method 1664 (Hexane Extractable Material) will replace the current Oil and Grease Method 413.1 found in 40 CFR 136.

INDIRECT DISCHARGE—A facility that discharges or may discharge pollutants into a publicly-owned treatment works.

INLAND TANK BARGE—A self-or non-self-propelled vessel constructed or adapted primarily to carry commodities or cargos in bulk in cargo spaces (or tanks) through rivers and inland waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. The commodities or cargos transported are in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

INTERMEDIATE BULK CONTAINER (IBC OR TOTE)—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the tank interior. Intermediate bulk containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. IBCs are portable containers with 450 liters (119 gallons) to 3000 liters (793 gallons) capacity. IBCs are also commonly referred to as totes or tote bins.

INTERMODAL TANK CONTAINER—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the tank interior. Intermodal tank containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. Containers larger than 3000 liters capacity are considered intermodal tank containers. Containers smaller than 3000 liters capacity are considered IBCs.

LTA—LONG-TERM AVERAGE—For purposes of the effluent guidelines, average pollutant levels achieved over a period of time by a facility, subcategory, or technology option. LTAs were used in developing the limitations and standards in today's proposed regulation.

MONTHLY AVERAGE LIMITATION—The highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during the calendar month divided by the number of ''daily discharges'' measured during the month.

NEW SOURCE—''New source'' is defined at 40 CFR 122.2 and 122.29(b).

NON-CONVENTIONAL POLLUTANT—Pollutants that are neither conventional pollutants nor priority toxic pollutants listed at 40 CFR Section 401.

NON-DETECT VALUE—A concentration-based measurement reported below the sample specific detection limit that can reliably be measured by the analytical method for the pollutant.

NONPROCESS WASTEWATER—Wastewater that is not generated from industrial processes or that does not come into contact with process wastewater. Nonprocess wastewater includes, but is not limited to, wastewater generated from restrooms, cafeterias, and showers.

NPDES—The National Pollutant Discharge Elimination System authorized under Sec. 402 of the CWA. NPDES requires permits for discharge of pollutants from any point source into waters of the United States.

NSPS—New Source Performance Standards.

OCEAN/SEA TANKER—A self-or non-self-propelled vessel constructed or adapted to transport commodities or cargos in bulk in cargo spaces (or tanks) through oceans and seas, where the commodity or cargo carried comes in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

OCPSF—Organic Chemicals, Plastics, and Synthetic Fibers Manufacturing Effluent Guideline, see 40 CFR part 414.

OFF SITE—''Off site'' means outside the bounds of the facility.

OIL AND GREASE—A method-defined parameter that measures the presence of relatively nonvolatile hydrocarbons, vegetable oils, animal fats, waxes, soaps, greases, and related materials that are extractable in Freon 113 (1,1,2-tricholoro-1,2,2-trifluoroethane). The analytical method for Oil and Grease and Total Petroleum Hydrocarbons (TPH) is currently being revised to allow for the use of normal hexane in place of freon 113, a chlorofluorocarbon (CFC). Method 1664 (Hexane Extractable Material) will replace the current Oil and Grease Method 413.1 found in 40 CFR part 136. In anticipation of promulgation of method 1664, data collected by EPA in support of the TECI effluent guideline utilized method 1664. Therefore, all effluent limitations proposed for Oil and Grease and TPH in this effluent guideline are to be measured by Method 1664.

ON SITE—''On-site'' means within the bounds of the facility.

OUTFALL—The mouth of conduit drains and other conduits from which a facility effluent discharges into receiving waters.

PETROLEUM CARGO—Petroleum cargos include the products of the fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other refining processes. For purposes of this rule, petroleum cargos also include products obtained from the refining or processing of natural gas and coal. For purposes of this rule, specific examples of petroleum products include but are not limited to: asphalt; benzene; coal tar; crude oil; cutting oil; ethyl benzene; diesel fuel; fuel additives; fuel oils; gasoline; greases; heavy, medium, and light oils; hydraulic fluids, jet fuel; kerosene; liquid petroleum gases (LPG) including butane and propane; lubrication oils; mineral spirits; naphtha; olefin, paraffin, and other waxes; tall oil; tar; toluene; xylene; and waste oil.

POLLUTANTS EFFECTIVELY REMOVED—Non-pesticide/herbicide pollutants that meet the following criteria are considered effectively removed: detected two or more times in the subcategory influent, an average subcategory influent concentration greater than or equal to five times their analytical method detection limit, and a removal rate of 50 percent or greater by the treatment technology option. Pesticide/herbicide pollutants that meet the following criteria are considered effectively removed: detected in the subcategory influent one or more times at a concentration above the analytical method detection limit, and a removal rate of greater than zero by the treatment technology option. All pollutants effectively removed were used in the environmental assessment and cost effectiveness analyses.

POTW—Publicly-owned treatment works, as defined at 40 CFR 403.3(o).

PRERINSE—Within a TEC cleaning process, a rinse, typically with hot or cold water, performed at the beginning of the cleaning sequence to remove residual material from the tank interior.

PRESOLVE WASH—Use of diesel, kerosene, gasoline, or any other type of fuel or solvent as a tank interior cleaning solution.

PRETREATMENT STANDARD—A regulation that establishes industrial wastewater effluent quality required for discharge to a POTW. (CWA Section 307(b).)

PRIORITY POLLUTANTS—The pollutants designated by EPA as priority in 40 CFR part 423, Appendix A.

PROCESS WASTEWATER—''Process wastewater'' is defined at 40 CFR 122.2.

PSES—Pretreatment standards for existing sources of indirect discharges, under Sec. 307(b) of the CWA.

PSNS—Pretreatment standards for new sources of indirect discharges, under Sec. 307(b) and (c) of the CWA.

RAIL TANK CAR—A completely enclosed storage vessel pulled by a locomotive that is used to transport liquid, solid, or gaseous commodities or cargos over railway access lines. A rail tank car storage vessel may have one or more storage compartments and the stored commodities or cargos come in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, as amended.

SIC—STANDARD INDUSTRIAL CLASSIFICATION—A numerical categorization system used by the U.S. Department of Commerce to catalogue economic activity. SIC codes refer to the products, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the economic activities in which they are engaged. SIC codes often denote a facility's primary, secondary, tertiary, etc. economic activities.

SILICA GEL TREATED HEXANE EXTRACTABLE MATERIAL (SGT–HEM)—A method-defined parameter that measures the presence of mineral oils that are extractable in the solvent n-hexane and not adsorbed by silica gel. The analytical method for Total Petroleum Hydrocarbons (TPH) and Oil and Grease is currently being revised to allow for the use of normal hexane in place of freon 113, a chlorofluorocarbon (CFC). Method 1664 (Hexane Extractable Material) will replace the current Oil and Grease Method 413.1 found in 40 CFR part 136. In anticipation of promulgation of method 1664, data collected by EPA in support of the TECI effluent guideline utilized method 1664. Therefore, all effluent limitations proposed for Oil and Grease and TPH in this effluent guideline are to be measured by Method 1664.

SOURCE REDUCTION—Any practice which reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, treatment, or disposal. Source reduction can include equipment or technology modifications, process or procedure modifications, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

TANK—A generic term used to describe any closed container used to transport commodities or cargos. The commodities or cargos transported come in direct contact with the container interior, which is cleaned by TEC facilities. Examples of containers which are considered tanks include but are not limited to: tank trucks, closed-top hopper trucks, intermodal tank containers, rail tank cars, closed-top hopper rail cars, inland tank barges, closed-top inland hopper barges, ocean/sea tankers, and similar tanks (excluding drums and intermediate bulk containers). Containers used to transport pre-packaged materials are not considered tanks, nor are 55-gallon drums or pails.

TANK TRUCK—A motor-driven vehicle with a completely enclosed storage vessel used to transport liquid, solid or gaseous materials over roads and highways. The storage vessel or tank may be detachable, as with tank trailers, or permanently attached. The commodities or cargos transported come in direct contact with the tank interior. A tank truck may have one or more storage compartments. There are no maximum or minimum vessel or tank volumes. Tank trucks are also commonly referred to as cargo tanks or tankers.

TEC industry—Transportation Equipment Cleaning Industry.

TOTES OR TOTE BINS—A completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the vessel interior. Totes may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. There are no maximum or minimum values for tote volumes, although larger containers are generally considered to be intermodal tank containers. Totes or tote bins are also referred to as intermediate bulk containers or IBCs. Fifty-five gallon drums and pails are not considered totes or tote bins.

TPH—Total Petroleum Hydrocarbons. A method-defined parameter that measures the presence of mineral oils that are extractable in Freon 113 (1,1,2-tricholoro-1,2,2-trifluoroethane) and not adsorbed by silica gel. The analytical method for TPH and Oil and Grease is currently being revised to allow for the use of normal hexane in place of freon 113, a chlorofluorocarbon (CFC). Method 1664 (Hexane Extractable Material) will replace the current Oil and Grease Method 413.1 found in 40 CFR 136. In anticipation of promulgation of method 1664, data collected by EPA in support of the TECI effluent guideline utilized method 1664. Therefore, all effluent limitations proposed

for Oil and Grease and TPH in this effluent guideline are to be measured by Method 1664.

TSS—TOTAL SUSPENDED SOLIDS—A measure of the amount of particulate matter that is suspended in a water sample. The measure is obtained by filtering a water sample of known volume. The particulate material retained on the filter is then dried and weighed, see Method 160.2.

TWF—Toxic Weighting Factor.

UNITED STATES SURFACE WATERS—Waters including, but not limited to, oceans and all interstate and intrastate lakes, rivers, streams, mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, and natural ponds.

VARIABILITY FACTOR—The daily variability factor is the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, median or mean, of the distribution of the daily data. The monthly variability factor is the estimated 95th percentile of the distribution of the monthly averages of the data divided by the expected value of the monthly averages.

VOLATILE ORGANIC COMPOUNDS (VOCs)—Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. See 40 CFR 51.100 for additional detail and exclusions

WATERS OF THE UNITED STATES—The same meaning set forth in 40 CFR 122.2.

ZERO DISCHARGE FACILITY—Facilities that do not discharge pollutants to waters of the United States or to a POTW. Also included in this definition are discharge of pollutants by way of evaporation, deep-well injection, off-site transfer to a treatment facility, and land application.

List of Subjects in 40 CFR Part 442

Environmental protection, Barge cleaning, Rail tank cleaning, Tank cleaning, Transportation equipment cleaning, Waste treatment and disposal, Water pollution control.

Dated: May 15, 1998.

Carol M. Browner,

Administrator.

Accordingly, 40 CFR Part 442 is proposed to be added as follows:

PART 442—TRANSPORTATION EQUIPMENT CLEANING POINT SOURCE CATEGORY

General Provisions

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442.1 Specialized definitions.
442.2 Applicability.

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442.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
442.14 New source performance standards (NSPS).
442.15 Pretreatment standards for existing sources (PSES).
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Subpart B—Rail/Chemical Subcategory

442.20 Applicability; description of the Rail/Chemical Subcategory.
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442.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
442.24 New source performance standards (NSPS).
442.25 Pretreatment standards for existing sources (PSES).
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Subpart C—Barge/Chemical & Petroleum Subcategory

442.30 Applicability; description of the Barge/Chemical & Petroleum Subcategory.
442.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
442.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
442.34 New source performance standards (NSPS).
442.35 Pretreatment standards for existing sources (PSES).
442.36 Pretreatment standards for new sources (PSNS).

Subpart D—Truck/Food Subcategory

442.40 Applicability; description of the Truck/Food Subcategory.
442.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
442.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
442.44 New source performance standards (NSPS).
442.45 Pretreatment standards for existing sources (PSES).
442.46 Pretreatment standards for new sources (PSNS).

Subpart E—Rail/Food Subcategory

442.50 Applicability; description of the Rail/Food Subcategory.
442.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
442.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
442.54 New source performance standards (NSPS).
442.55 Pretreatment standards for existing sources (PSES).
442.56 Pretreatment standards for new sources (PSNS).

Subpart F—Barge/Food Subcategory

442.60 Applicability; description of the Barge/Food Subcategory.
442.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
442.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
442.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
442.64 New source performance standards (NSPS).
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Tables to Part 442

Table 1 to Part 442.—Truck/Chemical Subcategory: BPT, BCT, BAT, and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters
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Table 3 to Part 442.—Rail/Chemical Subcategory: BPT, BCT, BAT, and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters
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Table 5 to Part 442.—Barge/Chemical & Petroleum Subcategory: BPT, BCT, BAT, and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters
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Table 7 to Part 442.—Truck/Food Subcategory: BPT, BCT and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters
Table 8 to Part 442.—Rail/Food Subcategory: BPT, BCT and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters
Table 9 to Part 442.—Barge/Food Subcategory: BPT, BCT and NSPS Proposed Mass Based Limitations for Discharges to Surface Waters

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

General Provisions

§ 442.1 Specialized definitions.

In addition to the definitions set forth in 40 CFR 401.11 and 403.3, the following definitions apply to this part:

(a) *Chemical cargos* are defined to include but are not limited to the following cargos: latex, rubber, plastics, plasticizers, resins, soaps, detergents, surfactants, agricultural chemicals and pesticides, hazardous waste, organic chemicals including: alcohols, aldehydes, formaldehydes, phenols, peroxides, organic salts, amines, amides, other nitrogen compounds, other aromatic compounds, aliphatic organic chemicals, glycols, glycerines, and organic polymers; refractory organic compounds including: ketones, nitriles, organo-metallic compounds containing chromium, cadmium, mercury, copper, zinc; and inorganic chemicals including: aluminum sulfate, ammonia, ammonium nitrate, ammonium sulfate, and bleach. Cargos which are not considered to be food-grade, petroleum, or dry bulk goods are considered to be chemical cargos.

(b) *Closed-top hopper* is a completely enclosed storage vessel used to transport dry bulk commodities or cargos. Closed-top hoppers are not designed or constructed to carry liquid commodities or cargos and are typically used to transport grain, soybeans, soy meal, soda ash, fertilizer, plastic pellets, flour, sugar, and similar commodities or cargos. The commodities or cargos transported come in direct contact with the hopper interior. Closed-top hoppers include truck, rail, and barge vessels.

(c) *Drums* are metal or plastic cylindrical containers with either an open-head or a tight-head (also known as bung-type top) used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the container interior. Drums typically range in capacity from 30 to 55 gallons.

(d) *Food grade cargos* are defined to include edible and non-edible food products. Specific examples of food grade products include but are not limited to: alcoholic beverages, animal by-products, animal fats, animal oils, caramel, caramel coloring, chocolate, corn syrup and other corn products, dairy products, dietary supplements, eggs, flavorings, food preservatives, food products that are not suitable for human consumption, fruit juices, honey, lard, molasses, non-alcoholic beverages, sweeteners, tallow, vegetable oils, vinegar, and water.

(e) *Inland tank barge* is a self- or non-self-propelled vessel constructed or adapted primarily to carry liquid, solid or gaseous commodities or cargos in bulk in cargo spaces (or tanks) through rivers and inland waterways, and may occasionally carry commodities or cargos through oceans and seas when in transit from one inland waterway to another. The commodities or cargos transported are in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

(f) *Intermediate bulk container* (''IBC'' or ''Tote'') is a completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which are in direct contact with the tank interior. IBCs may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. IBCs are portable containers with 450 liters (119 gallons) to 3000 liters (793 gallons) capacity. IBCs are also commonly referred to as totes or tote bins.

(g) *Intermodal tank container* is a completely enclosed storage vessel used to hold liquid, solid, or gaseous commodities or cargos which come in direct contact with the tank interior. Intermodal tank containers may be loaded onto flat beds for either truck or rail transport, or onto ship decks for water transport. Containers larger than 3000 liters capacity are considered intermodal tank containers. Containers smaller than 3000 liters capacity are considered IBCs.

(h) *Ocean/sea tanker* is a self- or non-self-propelled vessel constructed or adapted to transport liquid, solid or gaseous commodities or cargos in bulk in cargo spaces (or tanks) through oceans and seas, where the commodity or cargo carried comes in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

(i) *Petroleum cargos* are defined to include the products of the fractionation or straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other refining processes. For purposes of this rule, petroleum cargos also include products obtained from the refining or processing of natural gas and coal. For purposes of this rule, specific examples of petroleum products include but are not limited to: asphalt; benzene; coal tar; crude oil; cutting oil; ethyl benzene; diesel fuel; fuel additives; fuel oils; gasoline; greases; heavy, medium, and light oils; hydraulic fluids, jet fuel; kerosene; liquid petroleum gases (LPG) including butane and propane; lubrication oils; mineral spirits; naphtha; olefin, paraffin, and other waxes; tall oil; tar; toluene; xylene; and waste oil.

(j) *Rail tank car* is a completely enclosed storage vessel pulled by a locomotive that is used to transport liquid, solid, or gaseous commodities or cargos over railway access lines. A rail tank car storage vessel may have one or more storage compartments and the stored commodities or cargos come in direct contact with the tank interior. There are no maximum or minimum vessel or tank volumes.

(k) *Tank truck* is a motor-driven vehicle with a completely enclosed storage vessel used to transport liquid, solid or gaseous materials over roads and highways. The storage vessel or tank may be detachable, as with tank trailers, or permanently attached. The commodities or cargos transported come in direct contact with the tank interior. A tank truck may have one or more storage compartments. There are no maximum or minimum vessel or tank volumes. Tank trucks are also commonly referred to as cargo tanks or tankers.

(l) *Transportation equipment cleaning (TEC) process wastewater* is identified to include all wastewaters associated with cleaning the interiors of tanks including, but not limited to: tank trucks; rail tank cars; intermodal tank containers; inland tank barges; and ocean/sea tankers used to transport commodities or cargos that come into direct contact with the tank or container interior. TEC process wastewaters include wastewater generated from washing vehicle exteriors, equipment and floor washings, and TEC contaminated wasetwater.

§ 442.2 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, the provisions of this part apply to wastewater discharges of transportation equipment cleaning process wastewater. Facilities that do not engage in cleaning the interiors of tanks are not subject to the provisions of this part.

(b) The provisions of this part do not apply to wastewater discharges from transportation equipment cleaning operations located at industrial facilities regulated under other Clean Water Act effluent guidelines, provided that the facility cleans only tanks containing cargos or commodities generated or used on-site or by a facility under the same corporate structure.

(c) The provisions of this part do not apply to wastewater discharges from cleaning the interiors of drums or intermediate bulk containers.

Subpart A—Truck/Chemical Subcategory

§ 442.10 Applicability; description of the Truck/Chemical Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC process wastewater discharged from facilities that clean tank trucks and intermodal tank containers where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos.

§ 442.11 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 1 of this part.

§ 442.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease and pH listed in Table 1 of this part.

§ 442.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 1 of this part.

§ 442.14 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the effluent limitations listed in Table 1 of this part.

§ 442.15 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403 and achieve the pretreatment standards listed in Table 2 of this part.

§ 442.16 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the pretreatment standards listed in Table 2 of this part.

Subpart B—Rail/Chemical Subcategory

§ 442.20 Applicability; description of the Rail/Chemical Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC wastewater discharged from facilities that clean rail tank cars where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical cargos.

§ 442.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 3 of this part.

§ 442.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease, and pH listed in Table 3 of this part.

§ 442.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 3 of this part.

§ 442.24 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the effluent limitations listed in Table 3 of this part.

§ 442.25 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403 and achieve the pretreatment standards listed in Table 4 of this part.

§ 442.26 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the pretreatment standards listed in Table 4 of this part.

Subpart C—Barge/Chemical & Petroleum Subcategory

§ 442.30 Applicability; description of the Barge/Chemical & Petroleum Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC wastewater discharged from facilities that clean tank barges or ocean/sea tankers where 10 percent or more of the total tanks cleaned at that facility in an average year contained chemical and/or petroleum cargos.

§ 442.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 5 of this part.

§ 442.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease, and pH listed in Table 5 of this part.

§ 442.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 5 of this part.

§ 442.34 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the effluent limitations listed in Table 5 of this part.

§ 442.35 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Barge/Chemical & Petroleum facilities.

§ 442.36 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the pretreatment standards listed in Table 6 of this part.

Subpart D—Truck/Food Subcategory

§ 442.40 Applicability; description of the Truck/Food Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC wastewater discharged from facilities that clean tank trucks and intermodal tank containers where 10 percent or more of the total tanks cleaned at that facility in an average year contain food grade cargos. The provisions of this part do not apply to those facilities subject to the provisions established in § 442.10 for the Truck/Chemical Subcategory.

§ 442.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 7 of this part.

§ 442.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease, and pH listed in Table 9 of this part.

§ 442.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 442.44 New source performance standards (NSPS).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, and pH listed in Table 7 of this part.

§ 442.45 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Truck/Food facilities.

§ 442.46 Pretreatment standards for new sources (PSNS).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Truck/Food facilities.

Subpart E—Rail/Food Subcategory

§ 442.50 Applicability; description of the Rail/Food Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC wastewater discharged from facilities that clean rail tank cars where 10 percent or more of the total tanks cleaned at that facility in an average year contain food grade cargos. The provisions of this part do not apply to those facilities subject to the provisions established in § 442.20 for the Rail/Chemical Subcategory.

§ 442.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 8 of this part.

§ 442.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease, and pH listed in Table 8 of this part.

§ 442.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 442.54 New source performance standards (NSPS).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, and pH listed in Table 8 of this part.

§ 442.55 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Rail/Food facilities.

§ 442.56 Pretreatment standards for new sources (PSNS).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Rail/Food facilities.

Subpart F—Barge/Food Subcategory

§ 442.60 Applicability; description of the Barge/Food Subcategory.

Except as provided in § 442.2, the provisions of this subpart apply to TEC wastewater discharged from facilities that clean barges and ocean/sea tankers where 10 percent or more of the total tanks cleaned at that facility in an average year contain food grade cargos. The provisions of this part do not apply to those facilities subject to the provisions established in § 442.30 for the Barge/Chemical & Petroleum Subcategory.

§ 442.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the effluent limitations listed in Table 9 of this part.

§ 442.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, Oil and Grease, and pH listed in Table 9 of this part.

§ 442.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 442.64 New source performance standards (NSPS).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source must achieve the effluent limitations for BOD_5, TSS, and pH listed in Table 9 of this part.

§ 442.65 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Barge/Food facilities.

§ 442.66 Pretreatment standards for new sources (PSNS).

Any existing source subject to this subpart that introduces pollutants into a publicly-owned treatment works must comply with 40 CFR part 403. There are no additional pretreatment requirements established for Barge/Food facilities.

Tables to Part 442

TABLE 1 TO PART 442.—TRUCK/CHEMICAL SUBCATEGORY: BPT, BCT, BAT, AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/monthly average	Daily maximum	Monthly average
BOD_5	145	67.6	145	67.6	N/A	145	67.6
TSS	281	115	281	115	N/A	281	115
Oil and Grease (HEM)	25.3	16.1	25.3	16.1	N/A	25.3	16.1
Chromium	0.16	0.16	N/A	N/A	0.16	0.16	0.16
Zinc	0.09	0.09	N/A	N/A	0.09	0.09	0.09
COD	3760	3760	N/A	N/A	3760	3760	3760
Bis (2-ethylhexyl) pthalate	0.12	0.12	N/A	N/A	0.12	0.12	0.12
di-N-octyl phthalate	0.12	0.12	N/A	N/A	0.12	0.12	0.12
N-Dodecane	0.12	0.12	N/A	N/A	0.12	0.12	0.12
N-Hexadecane	0.12	0.12	N/A	N/A	0.12	0.12	0.12
Styrene	0.20	0.20	N/A	N/A	0.20	0.20	0.20
1,2-dichlorobenzene	0.12	0.12	N/A	N/A	0.12	0.12	0.12

TABLE 2 TO PART 442.—TRUCK/CHEMICAL SUBCATEGORY: PSES AND PSNS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO POTWS

[Grams/tank]

Pollutant or pollutant property	PSES		PSNS	
	Daily maximum	Monthly average	Daily maximum	Monthly average
Chromium	0.20	0.20	0.20	0.20
Zinc	0.12	0.12	0.12	0.12
COD	3760	3760	3760	3760
Bis (2-ethylhexyl) pthalate	0.23	0.23	0.23	0.23
di—N-octyl phthalate	0.15	0.15	0.15	0.15
N-Dodecane	0.19	0.19	0.19	0.19
N-Hexadecane	0.19	0.19	0.19	0.19
Styrene	0.40	0.40	0.40	0.40
1,2-dichlorobenzene	0.15	0.15	0.15	0.15

TABLE 3 TO PART 442.—RAIL/CHEMICAL SUBCATEGORY: BPT, BCT, BAT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/monthly average	Daily maximum	Monthly average
BOD_5	3,840	1,790	3,840	1,790	N/A	3,840	1,790
TSS	338	141	338	141	N/A	338	141
Oil and Grease (HEM)	470	286	470	286	N/A	130	83
COD	42,200	42,200	N/A	N/A	42,200	42,200	42,200
N-Dodecane	0.63	0.63	N/A	N/A	0.63	0.43	0.43
N-Hexadecane	0.43	0.43	N/A	N/A	0.43	0.43	0.43

TABLE 3 TO PART 442.—RAIL/CHEMICAL SUBCATEGORY: BPT, BCT, BAT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS—Continued

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/monthly average	Daily maximum	Monthly average
N-Tetradecane	0.43	0.43	N/A	N/A	0.43	0.43	0.43
Anthracene	2.20	2.20	N/A	N/A	2.20	2.20	2.20
Pyrene	0.68	0.68	N/A	N/A	0.68	0.68	0.68
Fluoranthene	0.74	0.74	N/A	N/A	0.74	0.74	0.74
Phenanthrene	1.96	1.96	N/A	N/A	1.96	1.96	1.96

TABLE 4 TO PART 442.—RAIL/CHEMICAL SUBCATEGORY: PSES AND PSNS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO POTWS

[Grams/tank]

Pollutant or pollutant property	PSES		PSNS	
	Daily maximum	Monthly average	Daily maximum	Monthly average
Total Petroleum Hydrocarbons (SGT–HEM)	942	942	207	207
COD	42,200	42,200	42,200	42,200
N-Hexadecane	2.56	2.56	2.56	2.56
N-Tetradecane	3.98	3.98	0.66	0.66
Fluoranthene	0.60	0.60	0.60	0.60

TABLE 5 TO PART 442.—BARGE/CHEMICAL & PETROLEUM SUBCATEGORY: BPT, BCT, BAT, AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/monthly average	Daily maximum	Monthly average
BOD_5	18,300	8,600	18,300	8,600	N/A	18,300	8,600
TSS	9,540	6,090	9,540	6,090	N/A	9,540	6,090
Oil and Grease (HEM)	658	294	658	294	N/A	658	294
COD	74,300	74,300	N/A	N/A	74,300	74,300	74,300
Cadmium	0.19	0.19	N/A	N/A	0.19	0.19	0.19
Chromium	1.82	1.82	N/A	N/A	1.82	1.82	1.82
Copper	2.17	2.17	N/A	N/A	2.17	2.17	2.17
Lead	1.93	1.93	N/A	N/A	1.93	1.93	1.93
Nickel	15.3	15.3	N/A	N/A	15.3	15.3	15.3
Zinc	153	153	N/A	N/A	153	153	153
1-Methylphenanthrene	2.04	2.04	N/A	N/A	2.04	2.04	2.04
Bis (2-ethylhexyl) Phthalate	1.88	1.88	N/A	N/A	1.88	1.88	1.88
Di-N-Octyl Phthalate	2.68	2.68	N/A	N/A	2.68	2.68	2.68
N-Decane	5.96	5.96	N/A	N/A	5.96	5.96	5.96
N-Docosane	3.02	3.02	N/A	N/A	3.02	3.02	3.02
N-Dodecane	16.7	16.7	N/A	N/A	16.7	16.7	16.7
N-Eicosane	6.67	6.67	N/A	N/A	6.67	6.67	6.67
N-Octadecane	7.45	7.45	N/A	N/A	7.45	7.45	7.45
N-Tetracosane	2.19	2.19	N/A	N/A	2.19	2.19	2.19
N-Tetradecane	7.30	7.30	N/A	N/A	7.30	7.30	7.30
P-Cymene	0.29	0.29	N/A	N/A	0.29	0.29	0.29
Pyrene	1.20	1.20	N/A	N/A	1.20	1.20	1.20

TABLE 6 TO PART 442.—BARGE/CHEMICAL & PETROLEUM SUBCATEGORY: PSES AND PSNS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO POTWS

[Grams/tank]

Pollutant or pollutant property	PSES		PSNS	
	Daily maximum	Monthly average	Daily maximum	Monthly average
Total Petroleum Hydrocarbons (SGT–HEM)	N/A	N/A	347	347
COD	N/A	N/A	74,300	74,300
Cadmium	N/A	N/A	0.51	0.51
Chromium	N/A	N/A	0.61	0.61
Copper	N/A	N/A	79.9	79.9
Lead	N/A	N/A	5.04	5.04
Nickel	N/A	N/A	39.1	39.1
Zinc	N/A	N/A	241	241
1-Methylphenanthrene	N/A	N/A	9.70	9.70
Bis (2-ethylhexyl) Phthalate	N/A	N/A	2.05	2.05
Di-N-Octyl Phthalate	N/A	N/A	7.69	7.69
N-Decane	N/A	N/A	7.26	7.26
N-Docesane	N/A	N/A	3.67	3.67
N-Dodecane	N/A	N/A	20.3	20.3
N-Eicosane	N/A	N/A	8.13	8.13
N-Octadecane	N/A	N/A	9.07	9.07
N-Tetracosane	N/A	N/A	5.51	5.51
N-Tetradecane	N/A	N/A	8.90	8.90
P-Cymene	N/A	N/A	2.21	2.21
Pyrene	N/A	N/A	2.94	2.94

TABLE 7 TO PART 442.—TRUCK/FOOD SUBCATEGORY: BPT, BCT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/ monthly average	Daily maximum	Monthly average
BOD_5	166	72.4	166	72.4	N/A	166	72.4
TSS	673	256	673	256	N/A	673	256
Oil and Grease (HEM)	60.4	26.3	60.4	26.3	N/A	60.4	26.3

TABLE 8 TO PART 442.—RAIL/FOOD SUBCATEGORY: BPT, BCT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/ monthly average	Daily maximum	Monthly average
BOD_5	945	412	945	412	N/A	945	412
TSS	3,830	1,460	3,830	1,460	N/A	3,830	1,460
Oil and Grease (HEM)	344	150	344	150	N/A	344	150

TABLE 9 TO PART 442.—BARGE/FOOD SUBCATEGORY: BPT, BCT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/ monthly average	Daily maximum	Monthly average
BOD_5	945	412	945	412	N/A	945	412
TSS	3,830	1,460	3,830	1,460	N/A	3,830	1,460

TABLE 9 TO PART 442.—BARGE/FOOD SUBCATEGORY: BPT, BCT AND NSPS PROPOSED MASS BASED LIMITATIONS FOR DISCHARGES TO SURFACE WATERS—Continued

[Grams/tank]

Pollutant or pollutant property	BPT		BCT		BAT	NSPS	
	Daily maximum	Monthly average	Daily maximum	Monthly average	Daily maximum/ monthly average	Daily maximum	Monthly average
Oil and Grease (HEM)	344	150	344	150	N/A	344	150

[FR Doc. 98–13792 Filed 6–24–98; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
June 25, 1998

Part III

Department of Housing and Urban Development

Statutorily Mandated Designation of Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986; Supplemental Designation; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4372–N–01]

Statutorily Mandated Designation of Qualified Census Tracts for Section 42 of the Internal Revenue Code of 1986; Supplemental Designation

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document provides revised and supplemental designations of ''Qualified Census Tracts'' for purposes of the Low-Income Housing Tax Credit (''LIHTC'') under section 42 of the Internal Revenue Code of 1986, and provides the methodology used by the United States Department of Housing and Urban Development (''HUD''). The new Qualified Census Tract designations are for Puerto Rico and for the metropolitan areas and the nonmetropolitan areas of States affected by changes in metropolitan area definitions since the last designation of Qualified Census Tracts on May 1, 1995 (60 FR 21246). The designations are based on 1990 census data. For the metropolitan areas and the nonmetropolitan areas of States *not listed in this Notice*, the corrected designations of ''Qualified Census Tracts'' published May 1, 1995 (60 FR 21246) remain in effect. These revisions are made necessary by: the recently enacted ''HUBZones'' provisions of the Small Business Reauthorization Act of 1997, which incorporate section 42 Qualified Census Tracts by reference; the need for Qualified Census Tract designations in Puerto Rico; and changes in the definitions of metropolitan areas since the last designation of Qualified Census Tracts.

FOR FURTHER INFORMATION CONTACT: With questions on how tracts are designated and on geographic definitions, Kurt G. Usowski, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0426, e-mail Kurt__G.__Usowski@hud.gov. With specific legal questions pertaining to section 42 and this notice, Chris Wilson, Attorney, Office of the Chief Counsel, Pass Throughs and Special Industries Branch 5, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC, 20244, telephone (202) 622–3040, fax (202) 622–4779; or Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3260, e-mail H.__JERRY__GROSS@hud.gov. For questions about the ''HUBZones'' program, Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Suite 8800, Small Business Administration, 409 Third Street, SW, Washington, DC 20416, telephone (202) 205–6731, fax (202) 205–7324, e-mail michael.mchale@sba.gov. A telecommunications device for deaf persons (TTY) is available at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUDUSER at (800) 245–2691 for a small fee to cover duplication and mailing costs.

COPIES AVAILABLE ELECTRONICALLY: This notice is available electronically on the Internet (World Wide Web) at http://www.huduser.org/ under the heading ''Data Available from HUDUser.'' A complete revised list of all Qualified Census Tracts including the tracts designated by this Notice and the previously-designated tracts which continue to be in effect will be posted at this site.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the ''Code''), including the Low-Income Housing Tax Credit (''LIHTC'') found at section 42 of the Code, as enacted by the Tax Reform Act of 1986 [Pub.L. 99–514], as amended by the Technical and Miscellaneous Revenue Act of 1988 [Pub.L. 100–647], as amended by the Omnibus Budget Reconciliation Act of 1989 [Pub.L. 101–239], as amended by the Omnibus Budget Reconciliation Act of 1990 [Pub.L. 101–508], as amended by the Tax Extension Act of 1991 [Pub.L. 102–227], and as amended and made permanent by the Omnibus Budget Reconciliation Act of 1993 [Pub.L. 103–66]. The Secretary of HUD is required to designate Qualified Census Tracts and Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Qualified Census Tracts for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the ''credit ceiling'') is limited by population. Each state is allocated credit based on $1.25 per resident. Also, states may carry forward unused or returned credit for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low income housing building owners applying for the credit.

The credit is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20% of units must be rent-restricted and occupied by tenants with incomes no higher than 50% of the Area Median Gross Income (''AMGI''), or 40% of units must be rent restricted and occupied by tenants with incomes no higher than 60% of AMGI. The term ''rent-restricted'' means that gross rent, including an allowance for utilities, cannot exceed 30% of the tenant's imputed income limitation (i.e., 50% or 60% of AMGI). The rental restrictions remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the ''qualified basis'' for new construction or substantial rehabilitation expenditures that are not federally subsidized or financed with tax-exempt bonds, or (2) 30 percent of the qualified basis for the acquisition of existing projects or projects involving federal subsidies or financing with tax-exempt bonds. The actual credit rates were fixed at 9 percent (70 percent present value) and 4 percent (30 percent present value) for 1987, and are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6% maximum

marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or professional service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also use the losses from the project.

The qualified basis represents a fraction of the ''eligible basis,'' based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space in the building. The eligible basis is the adjusted basis attributable to acquisition cost plus the amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis is increased to 130% of what it otherwise would be. This means that the available credit will also be increased by 30%; if the 70% credit is available, it will effectively be increased to 91%.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 60% of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area (''MSA'') or Primary Metropolitan Statistical Area (''PMSA'') that may be designated to receive an increase in eligible basis: all of the designated census tracts within a given MSA/PMSA may not together contain more than 20% of the total population of the MSA/PMSA. For purposes of this rule, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area. An amendment to section 42 made by section 11701(a)(2) of the Omnibus Budget Reconciliation Act of 1990 specifies that the income test for designation of Qualified Census Tracts should be based on the most recent census data.

In the last designation of Qualified Census Tracts published May 1, 1995 (60 FR 21246), no tract designations were made in Puerto Rico because the entire island was designated a ''Difficult Development Area'' under section 42 of the Internal Revenue Code making the designation of Qualified Census Tracts superfluous. Because the current designation of section 42 Difficult Development Areas, published October 21, 1997 (62 FR 54732), no longer names all of Puerto Rico a Difficult Development Area, updated designations of Qualified Census Tracts are required. The following changes in MSA/PMSA definitions were made after HUD's last designation of Qualified Census Tracts.

New MSA (MSA No.)	Component counties
Flagstaff, AZ–UT MSA (2620).	Coconino County, AZ. Kane County, UT.
Grand Junction, CO MSA (2995).	Mesa County, CO.
Hattiesburg, MS MSA (3285).	Forrest County, MS. Lamar County, MS.
Jonesboro, AR MSA (3700).	Craighead County, AR.
Pocatello, ID MSA (6340).	Bannock County, ID.

In addition, Chester County, Tennessee was added to the Jackson, TN MSA (3580). With this addition, the MSA now comprises Chester and Madison Counties, Tennessee.

Finally, the recently enacted ''HUBZones'' provisions of the Small Business Reauthorization Act of 1997 [Pub.L. 105–135] incorporate section 42 Qualified Census Tracts by reference making necessary these revisions to ensure legal compliance with this new program.

Explanation of HUD Designation Methodology

A. Qualified Census Tracts

In developing this revised list of LIHTC Qualified Census Tracts, HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1996. Beginning with the 1990 census, tract-level data are available for the entire country. Generally, in metropolitan areas these geographic divisions are called census tracts while in most non-metropolitan areas the equivalent nomenclature is Block Numbering Area (''BNA''). BNAs are treated as census tracts for the purposes of this Notice.

The LIHTC Qualified Census Tracts were determined as follows:

1. A census tract must have 50% of its households with incomes below 60% of the AMGI to be eligible. HUD has defined 60% of AMGI income as 120% of HUD's Very Low Income Limits, that are based on 50% of area median family income, adjusted for high cost and low income areas. The income estimates were then deflated to 1989 dollars, so they would match the 1990 Census income data.

2. For each census tract, the percentage of households below the 60% income standard was determined by (a) calculating the average household size of the census tract, (b) applying the income standard after adjusting it to match the average household size, and (c) calculating the number of households with incomes below the income standard.

3. Qualified Census Tracts are those in which 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area.

4. In areas where more than 20% of the population qualifies, census tracts are ordered from the highest percentage of eligible households to the lowest. Starting with the highest percentage, census tracts are included until the 20% limit is exceeded. If a census tract is excluded because it raises the percentage above 20%, then subsequent census tracts are considered to determine if a census tract with a smaller population could be included without exceeding the 20% limit.

B. Application of Caps to Qualified Census Tract Determinations

In identifying Qualified Census Tracts, HUD applied various caps, or limitations, as noted above. For Qualified Census Tracts, section 42(d)(5)(C)(ii)(II) of the Code specifies that the population of eligible census tracts within a metropolitan area cannot exceed 20% of the population of that metropolitan area. Similarly, for census tracts/BNAs located outside metropolitan areas, the population of eligible census tracts/BNAs cannot exceed 20% of the population of the non-metropolitan counties in a State.

In applying these caps, HUD established procedures to deal with two issues: (1) how to proceed when the next logical choice for inclusion causes the cumulative area population to exceed the cap, and (2) how to treat small overruns of the caps. The remainder of this section explains the procedures.

1. Next choice causes cumulative population to exceed the cap. In applying the 20% cap to Qualified Census Tracts, HUD did not attempt to break a borderline census tract into smaller areas. Instead HUD looked tract-by-tract down the ranking beyond the excluded tract to see if a smaller tract could be included without exceeding the cap. Section 42(d)(5)(C)(ii)(I) of the Code sets a simple test for eligibility for Qualified Census Tracts. If a tract's low income population exceeds 50% of its total population, then the tract is eligible *unless* it becomes necessary to eliminate the tract to satisfy the cap. There are many metropolitan areas and

States in which the population of eligible areas falls short of 20%. When HUD had to eliminate tracts to satisfy the 20% cap, it was choosing among tracts that were otherwise eligible.

2. Anomalous results. For Qualified Census Tracts, HUD applied the caps strictly unless a strict application produced an anomalous result. Specifically, HUD stopped selecting areas when it was impossible to choose another area without exceeding the applicable cap. The only exception to this policy was when an excluded area contained either a large absolute population or a large percentage of the total population *and* its inclusion resulted in only a minor overrun of the cap. There were some cases where the inclusion of an area would result in a minimal overrun of the cap; but, in all of these cases, the exclusion of the area resulted in neither a large absolute loss of population nor a large short-fall below 20%. HUD believes the designation of these areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to really determine whether the 20% cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20% cap. In circumstances where a strict application of a 20% cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting *small* variances above the 20% limit.

Future Designations

Qualified Census Tracts will not be redesignated until year 2000 census data become available unless further changes in metropolitan area definitions occur.

Effective Date

The revisions to the list of Qualified Census Tracts are effective for allocations of credit made after December 31, 1998. In the case of a building described in Internal Revenue Code section 42(h)(4)(B), the list is effective if the bonds are issued and the building is placed in service after December 31, 1998. The corrected designations of ''Qualified Census Tracts'' under section 42 of the Internal Revenue Code published May 1, 1995 (60 FR 21246) for the metropolitan areas and nonmetropolitan parts of States not listed in this Notice remain in effect. The list of Difficult Development Areas published October 21, 1997 (62 FR 54732) remains in effect. Effective dates with respect to the HUBZones program will be established separately by the Small Business Administration.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the CEQ regulations and 24 CFR 50.19(c)(6) of the HUD regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites and therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no FONSI is required.

Regulatory Flexibility Act

In accordance with 5 U.S.C. Section 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of ''Difficult Development Areas'' for use by political subdivisions of the States in allocating the LIHTC, as required by section 42 of the Code, as amended. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have any substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the order. The notice merely designates ''Qualified Census Tracts'' for the use by political subdivisions of the States in allocating the LIHTC, as required under section 42 of the Internal Revenue Code, as amended. The notice also details the technical methodology used in making such designations.

Dated: June 18, 1998.

Andrew Cuomo,

Secretary.

BILLING CODE 4210–32–P

IRS SECTION 42(D)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

METROPOLITAN AREA: Aguadilla, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aguadilla Municipio	4001.00	4008.00	4009.00	4010.00	4011.00	4013.00	4206.98					

METROPOLITAN AREA: Arecibo, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Arecibo Municipio	3001.00	3004.00	3005.00	3013.00	3018.00	3019.00	3021.00	3023.00				
Camuy Municipio	3205.00											

METROPOLITAN AREA: Caguas, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Caguas Municipio	2009.00	2010.00	2012.00	2019.00	2029.00							
Cayey Municipio	2606.00	2607.00	2609.00									
Cidra Municipio	2402.00											
Gurabo Municipio	2103.00											
San Lorenzo Municipio	2202.00	2205.00	2206.00	2207.00								

METROPOLITAN AREA: Flagstaff, AZ-UT												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Coconino County	10.00	22.00	24.00	25.00								

METROPOLITAN AREA: Grand Junction, CO												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mesa County	1.00	2.00										

METROPOLITAN AREA: Hattiesburg, MS												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Forrest County	1.00	4.00	5.00	6.00	9.00							

METROPOLITAN AREA: Jackson, TN												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	5.00	8.00	9.00	10.00	11.00	12.00						

METROPOLITAN AREA: Mayaguez, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anasco Municipio	8101.00											
Cabo Rojo Municipio	8305.00											
Mayaguez Municipio	801.00	803.00	804.00	805.00	806.00	807.00	809.00	810.00	811.00	812.01	812.02	812.03
Sabana Grande Municipio	9605.00	9608.00										
San German Municipio	8406.98											

IRS SECTION 42(D)(5)(C) METROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

METROPOLITAN AREA: Pocatello, ID												
COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bannock County	9.00	16.01										

METROPOLITAN AREA: Ponce, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Juana Diaz Municipio	719.02	7102.00	7109.01									
Ponce Municipio	702.02	703.00	704.00	706.01	708.00	709.00	710.00	713.00	716.02	721.01	726.00	728.00
	730.02											
Villalba Municipio	7201.00	7203.00										

METROPOLITAN AREA: San Juan-Bayamon, PR												
MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aguas Buenas Municipio	2303.00	2304.98										
Barceloneta Municipio	5902.00	5903.00										
Bayamon Municipio	305.00	307.00	321.00									
Canovanas Municipio	1001.98	1004.00										
Catano Municipio	201.00	202.00	203.00	204.04								
Comerio Municipio	9517.00	9518.00	9519.00	9521.00								
Corozal Municipio	5301.00	5303.00	5305.00	5306.00								
Dorado Municipio	5407.00											
Florida Municipio	5802.00											
Guaynabo Municipio	401.01	401.02	401.03									
Juncos Municipio	5004.00											
Loiza Municipio	1101.00	1102.00	1104.00	1106.00								
Manati Municipio	5701.00	5703.00	5707.00									
Morovis Municipio	9553.00	9554.00	9555.00									
Naguabo Municipio	1703.00											
Naranjito Municipio	5201.00	5202.00	5203.00									
San Juan Municipio	2.00	6.00	13.00	14.00	27.00	28.00	29.00	31.00	33.00	34.00	35.01	35.02
	36.00	37.00	38.00	40.00	41.00	42.01	43.00	44.00	45.00	46.00	47.00	48.00
	49.00	50.00	51.03	52.23	54.02	60.00	82.01	89.00	90.00	92.00	93.00	95.00
	103.00											
Toa Alta Municipio	5107.98											
Toa Baja Municipio	1217.00	1218.01	1221.00	1222.00	1224.00							
Vega Alta Municipio	5501.00	5503.00										
Vega Baja Municipio	5606.00	5609.00										
Yabucoa Municipio	9507.00	9508.00	9513.00									

IRS SECTION 42(D)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

STATE: ARIZONA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Apache County	9760.00	9771.00	9772.00	9773.00	9774.00	9775.00	9778.00					
Cochise County	9.00											
Gila County	9850.00											
Graham County	9950.00											
La Paz County	201.00											
Navajo County	9651.00	9652.00	9653.00	9660.00	9671.00	9672.00	9674.00	9675.00	9676.00			

STATE: ARKANSAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chicot County	9802.00	9804.00										
Desha County	9503.00											
Garland County	106.00	107.00	108.00	115.00								
Lee County	9704.00											
Phillips County	9804.00	9805.00	9806.00									

STATE: COLORADO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Conejos County	9746.00	9747.00	9748.00									
Costilla County	9827.00											
Delta County	9648.00											
Elbert County	9911.00											
Huerfano County	9808.00											
Las Animas County	9832.00											
Montezuma County	9695.00											
Otero County	9880.00											

STATE: IDAHO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bingham County	9508.00											
Bonneville County	9701.00	9712.00										
Kootenai County	9.00											
Latah County	54.00											
Twin Falls County	9811.00											

IRS SECTION 42(D)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

STATE: MISSISSIPPI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	3.00	4.00										
Bolivar County	9501.00	9502.00	9503.00	9504.00								
Coahoma County	9501.00	9506.00	9507.00									
Holmes County	9502.00	9503.00	9504.00	9505.00								
Humphreys County	9503.00											
Jefferson County	9501.00	9502.00										
Jones County	9507.00											
Lafayette County	9503.00											
Lauderdale County	1.00	2.00	4.00	6.00	7.00							
Leflore County	9502.00	9508.00	9509.00									
Lowndes County	7.00	8.00	11.00									
Pike County	9503.00											
Sunflower County	9503.00	9505.00										
Tallahatchie County	9504.00											
Tunica County	9501.00	9502.00										
Warren County	9503.00	9504.00										
Washington County	4.00	5.00	6.00	10.00	11.00	18.00	20.00					
Wilkinson County	9502.00											
Yazoo County	9505.00											

IRS SECTION 42(D)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

STATE: PUERTO RICO

MUNICIPO	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adjuntas Municipio	9563.00	9564.00	9565.00	9566.00	9567.00	9568.00						
Aibonito Municipio	2503.00	2504.00										
Arroyo Municipio	2801.00											
Barranquitas Municipio	9523.00	9524.00										
Ciales Municipio	9557.00	9559.00										
Coamo Municipio	9540.00	9541.00	9546.00									
Guanica Municipio	9609.00	9610.00	9611.00	9612.00	9614.00	9615.00						
Guayama Municipio	2701.98	2702.98	2704.00	2706.00	2707.00							
Isabela Municipio	4102.00	4106.00										
Jayuya Municipio	9560.00	9561.00	9562.00									
Lares Municipio	9577.00	9578.00	9579.00	9583.00	9584.00							
Las Marias Municipio	9597.98	9599.00										
Maricao Municipio	9601.98											
Maunabo Municipio	9514.00	9515.00										
Orocovis Municipio	9549.00	9550.98	9551.00									
Patillas Municipio	2901.00	2903.00	2904.00									
Quebradillas Municipio	3303.00											
Rincon Municipio	9596.00											
Salinas Municipio	9526.98	9527.00	9529.00	9532.00								
San Sebastian Municipio	9585.00	9586.00	9588.00	9591.00	9593.00	9598.00	9686.00	9891.00				
Santa Isabel Municipio	9533.00	9534.00	9535.00	9537.00								
Utuado Municipio	9569.00	9571.00	9572.00	9574.00	9575.00	9576.00						
Vieques Municipio	9501.00	9502.00	9504.00									

STATE: TENNESEE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bradley County	104.00	107.00	108.00									
Campbell County	9503.00											
Fentress County	9651.00											
Hamblen County	1003.00											
Hancock County	9601.00	9602.00	9603.00									
Haywood County	9807.00											
Henry County	9693.00											
McMinn County	9702.00											
Marshall County	9553.00											
Maury County	105.00											
Putnam County	8.00											

IRS SECTION 42(D)(5)(C) NONMETROPOLITAN QUALIFIED CENSUS TRACTS (1990 DATA, MSA/PMSA DEFINITIONS JUNE 30, 1996)

STATE: UTAH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cache County	16.00											
Carbon County	9716.00											
Juab County	9732.00											
San Juan County	9783.00	9784.00										
Wasatch County	9925.00											

[FR Doc. 98–16828 Filed 6–24–98; 8:45 am]

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Thursday
June 25, 1998

Part IV

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors; Proposed Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE–RM–96–400]

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; limited reopening of the comment period.

SUMMARY: In a Notice of Proposed Rulemaking, 61 FR 60440 (November 27, 1996) (NOPR), concerning one through 200 horsepower electric motors that are covered under the Energy Policy and Conservation Act, as amended (EPCA), the Department of Energy (DOE or the Department) proposed to adopt test procedures (including those in Institute of Electrical and Electronics Engineers, Inc. Standard 112–1991 [''IEEE 112–1991'']), sampling plans for compliance and enforcement testing, efficiency labeling requirements, and standards and procedures under which DOE would classify an accreditation organization or a certification program as ''nationally recognized.'' The Department is now considering several additional options in these areas, which were either not set forth or not clearly described in the NOPR. Specifically, the Department is considering adoption of (1) revised sampling plans for compliance and enforcement, (2) revisions to the IEEE test procedures, (3) alternative requirements where a motor's efficiency is established under EPCA through a certification program, (4) verifying the validity of labeled efficiency by use of the proposed enforcement procedures, and (5) withdrawal of recognition from an accreditation organization or certification program that deviates from the standards for recognition. The purpose of this notice is to reopen the comment period to solicit comments on these options.

DATES: Written comments in response to this notice must be received by July 27, 1998.

ADDRESSES: Ten copies (no telefacsimilies) of written comments should be labeled ''Electric Motor Rulemaking'' (Docket No. EE–RM–96–400), and submitted to: U.S. Department of Energy, Office of Codes and Standards, EE–43, 1000 Independence Avenue, SW, Room 1J–018, Washington, DC 20585–0121. Telephone: (202) 586–2945.

Copies of the Institute of Electrical and Electronics Engineers standards may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331, 1–800–678–IEEE.

A copy of the document, ''Analysis of Proposals for Compliance and Enforcement Testing Under the New Part 431; Title 10, Code of Federal Regulations,'' NISTIR 6092, by K.L. Stricklett and M. Vangel, January 1998, may be obtained from the National Institute of Standards and Technology (NIST).[1] Information regarding availability of the report, NISTIR 6092, may be obtained from the NIST Inquiries Office at 301–975–3058. A copy of NISTIR 6092 is available through the NIST World Wide Web site http://www.eeel.nist.gov/811/div/811__pubs__ps.html#nistir6092. NISTIR 6092 is also available from the National Technical Information Service (NTIS), and may be ordered through the NTIS Sales Desk at 703–605–6000, or by telefax at 703–321–8547, or by electronic mail at orders@ntis.fedworld.gov. A copy of the document is also available at the Office of Codes and Standards World Wide Web site http://www.eren.doe.gov/buildings/codes__standards/rules/emenfpol/index.htm.

Copies of the proposed rule, a transcript of the January 15, 1997 public hearing, the public comments received (including the NEMA proposal), and NISTIR 6092 may be read at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585–0101, telephone (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, telephone (202) 586–8654, telefax (202) 586–4617, or: jim.raba@ee.doe.gov

Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507, telefax (202) 586–4116, or: edward.levy@hq.doe.gov

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Policy and Conservation Act (EPCA or the Act), 42 U.S.C. 6311, *et seq.*, establishes energy efficiency standards and test procedures for certain commercial and industrial electric motors. Section 342(b)(1) of EPCA, 42 U.S.C. 6313(b)(1), requires that ''each [such] electric motor manufactured (alone or as a component of another piece of equipment) * * * shall have a nominal full load efficiency of not less than [the prescribed level].'' The Act requires generally that the test procedures be ''reasonably designed to produce test results which reflect energy efficiency,'' yet not be ''unduly burdensome'' to conduct, EPCA section 345(a)(2), 42 U.S.C. 6316(a)(2), and prescribes specific test methods for electric motors, EPCA section 343(a)(5), 42 U.S.C. 6314(a)(5). The Act also directs the Department to require, subject to certain conditions, that a motor's energy efficiency be displayed on its permanent nameplate and in material used to market the motor. EPCA section 344(d), 42 U.S.C. 6315(d). Finally manufacturers must certify ''through an independent testing or certification program nationally recognized in the United States,'' that each covered motor complies with the applicable efficiency standard. EPCA section 345(c), 42 U.S.C. 6316(c).

On November 27, 1996, the Department published a proposed rule on test procedures for the measurement of energy efficiency, efficiency labeling, and compliance and enforcement procedures for these electric motors. The proposed rule incorporated the Institute of Electrical and Electronics Engineers (IEEE) Standard 112–1991 Test Method B as one method for measuring energy efficiency, 61 FR 60446 (November 27, 1996). Other proposed provisions included two statistical sampling plans—one for compliance and labeling and another for enforcement, 61 FR 60446–49, 60459–60 (November 27, 1996), requirements that a motor's energy efficiency be stated on its nameplate and in marketing materials, 61 FR 60451–52 (November 27, 1996), and procedures as to recognition of a testing or certification program used to certify that an electric motor complies with EPCA efficiency standards, 61 FR 60457–58.

On January 15, 1997, a public hearing was held on the proposed rule, and thereafter the Department received numerous written comments on the

[1] Appendix D of NISTIR 6092 contains the sampling proposals submitted by the NEMA Motor and Generator Section, April 18, 1997, in response to the NOPR.

proposal. The hearing and written comments, as well as the Department's further review of the proposed rule, have given rise to the issues addressed in today's reopening notice. The Department seeks comments at this time only on those issues.

II. Discussion

A. Modifications to the IEEE 112–1996 Method B Test Procedures

Section 343(a)(5)(A) of EPCA requires that the test procedures to determine the efficiency of electric motors under EPCA shall be the test procedures specified in NEMA MG1–1987 and IEEE Standard 112 Test Method B (IEEE 112) for motor efficiency, as in effect on the date of the enactment of the Energy Policy Act of 1992. If the test procedures in NEMA MG1 and IEEE 112 are subsequently amended, the Secretary of Energy is required to revise the regulatory test procedures for electric motors to conform to such amendments, ''unless the Secretary determines by rule, * * * supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in'' sections 343(a)(2) and (3) of EPCA.

NEMA MG1–1987 was revised and superseded by NEMA MG1–1993, which was published in October 1993. Revision 1 to NEMA MG1–1993, was added on December 7, 1993. In the NOPR, the Department stated that it would adopt the test procedure provisions of NEMA MG1–1993 with Revision 1. IEEE 112–1991 was revised and superseded by IEEE 112–1996, which was published May 8, 1997. A minor revision was made in IEEE 112–1996 on January 20, 1998, when IEEE issued a notice of correction for the calculation at item (28) in section 10.2 Form B-Method B: ''Calculation form for input-output test of induction machine with segregation of losses and smoothing of stray-load loss.'' Under EPCA, DOE must now adopt the test procedures in IEEE 112–1996 with the minor revision, unless clear and convincing evidence supports a conclusion that such test procedures are not reasonably designed to produce test results which reflect energy efficiency, and or unduly burdensome to conduct.

The Department compared IEEE 112–1991 to IEEE 112–1996 to determine whether there were differences in Test Method B, which applies here, and, if so, whether to adopt Test Method B in IEEE 112–1996 into the final rule for electric motors. As a result of its analysis, the Department believes Test Method B in IEEE 112–1996 improves upon the version of that test method in IEEE 112–1991, because IEEE 112–1996 includes: tightened tolerances on metering instrumentation (IEEE 112, clause 4), a more comprehensive and consolidated verbal description of the components of test method B (IEEE 112, clause 6.4), and specific formulae provided for calculation of stator I^2R losses (IEEE 112, clause 5.1).

After publication of IEEE 112–1996 in May 1997, however, the Department became aware, through information submitted by a testing laboratory that has gained experience using the test procedure, that Test Method B in IEEE 112–1996 contains (1) typographical errors, (2) statements of procedure that are open to interpretation, and (3) incorrect information. For a given motor, these defects could cause varying measurements of efficiency, or errors ranging from plus or minus one half to one and one half percentage points in measured efficiency. Subsequently, the Department confirmed the existence of these types of problems with IEEE 112–1996 through contacts with other testing laboratories, a certification organization, and manufacturers, each known to have experience with IEEE 112, and discussions with the Chairman of the IEEE Induction Power Subcommittee. Indeed, the Department is aware that one testing laboratory applied the test procedure to a single motor, tested the motor four times, and arrived at a different result each time based upon various interpretations of the language in the test procedure.

Even a half percentage point error in the measured efficiency could throw a motor into the next higher or lower level of nominal efficiency, effectively rendering it in compliance with the applicable EPCA efficiency standard, or out of compliance. Thus, for example, an error in IEEE 112–1996 could cause a manufacturer to incorrectly measure the efficiency of a motor that is actually in compliance, conclude that it is below the required efficiency level, and unnecessarily redesign all or part of its product line. (IEEE corrected one such error in its January 1998 notice of correction.) Also, the provisions of IEEE 112–1996 that are subject to interpretation leave room for a manufacturer to intentionally bias the measured efficiency of a motor that is actually out of compliance, so that the motor will be found to meet the applicable level required under the statute.

In sum, Test Method B in IEEE 112–1996 has several advantages, discussed above, as well as typographical errors, provisions subject to interpretation, and incorrect information. The Department's intention, therefore, is that the final rule will prescribe IEEE 112–1996 Test Method B, with the January 1998 correction, as the test procedure under EPCA for determining the energy efficiency of electric motors, but with certain modifications.[2] The following sets forth those modifications, as well as a few potential problems as to which the Department has tentatively decided not to make changes:

1. Typographical Errors

a. *Page 17, subclause 6.4.1.3, ''No-load test,''* currently reads: ''See 5.3 including 5.33, * * *'' This is an incorrect reference in the standard, because there is no subclause 5.33. The Department proposes to change the reference to read: ''See 5.3 including 5.3.3, * * *'' to point to the proper subclause dealing with the separation of core loss from friction and windage loss.

b. *Page 48, item (24), the formula for shaft power in watts,* currently reads: ''Is equal to [(23) • (11)]/k_2'', but the constant k_2 is not defined. In IEEE 112 section 10.2 Form B-Method B, the constant ''k'' is defined in terms of torque for the formula in item (22); and the constant ''k_1'' is defined in terms of conductivity for the formula in item (16). Upon examination of the test procedure and through inquiries made to the aforementioned organizations experienced with IEEE 112, the Department has determined that use of ''k_2'' in item (24) is a typographical error for the constant ''k'', since the torque constant (''k''), from item (22), is necessary to calculate shaft power in item (24). The Department proposes to correct the constant ''k_2'' in item (24) to the constant ''k''. The formula in item (24) would then read: ''Is equal to [(23) • (11)]/k''.

2. Provisions Subject to Interpretation

a. *Page 8, subclause 5.1.1, ''Specified temperature''* provides three methods, listed in order of preference, to determine the specified temperature used in making resistance corrections: (a) measured temperature rise by resistance from a rated load temperature test; (b) measured temperature rise on a duplicate machine; and (c) use of a temperature correction table when rated load temperature has not been measured. The Department understands that, although subclause 5.1.1 applies generally to the testing of motors under IEEE 112, part ''c'' of that subclause does not apply to Test Method B. Part

[2] It should be noted that the Department is not purporting to alter IEEE 112–1996. Rather, the Department is proposing only to mandate certain modifications to IEEE 112–1996 Test Method B *when it is used for purposes of measuring efficiency under EPCA.*

''c'' is a calculation procedure, for use when the rated load temperature has not been measured. The first test to be performed under Method B, however, per subclause 6.4.1.1, requires a measurement of rated load temperature. Hence, only options ''a'' or ''b'' in subclause 5.1.1 are applicable to Method B. Information provided to the Department indicates, however, that option ''c'' is being misapplied to Test Method B.

Such misapplication of option ''c'' can distort efficiency values. The Department understands that use of a prescribed temperature value from option ''c'' would result in a higher value of efficiency in circumstances where the measured full load (1.0 service factor) temperature is greater than such prescribed temperature, and a lower value of efficiency in circumstances where the measured full load (1.0 service factor) temperature for a motor is less than the prescribed temperature. The Department believes that to achieve consistency under EPCA, the best approach is to always use a measured winding temperature for the efficiency calculation, as is contemplated by Test Method B.

The Department's final rule could incorporate into subclause 5.1.1, ''Specified temperature,'' the following language: ''(Method B only allows the use of preference a) or b).)'' The Department seeks comment on whether such a change is warranted in 5.1.1, although it currently believes that the proposed change is unnecessary, because it would be redundant with the provisions of Test Method B. It would be warranted only by reading the general information section of IEEE 112 in isolation from Test Method B. As stated above the Department understands that, under Test Method B, the first test to be performed is a rated load temperature test. This test determines the values for the rated load heat run stator winding resistance between terminals, items (3) and (4), on 10.2 Form B, per subclause 6.4.1.1, *Rated load temperature test*. The values are then used to calculate stator I^2R loss, item (27) in 10.2 Form B. Per this requirement, only options ''a'' or ''b'' in the referenced section 5.1.1 are applicable to Method B. Option ''c'' is not a ''measurement procedure'' and cannot be used with Method B; it is applicable only to other IEEE 112 test methods. Moreover, if a manufacturer or testing laboratory uses option ''c'', it is not following Test Method B and cannot say the motor has been tested according to Method B.

b. *Page 47, the procedure to measure temperature* in item (4) *Rated Load Heat Run Stator Winding Temperature* is not defined. Item (4) is used in item (27), *Stator I^2R Loss, in Watts, at (t_s)°C,* to correct the stator loss corresponding to item (16), *Stator I^2R Loss, in Watts, at (t_t)°C,* which is based on the temperature recorded for item (7). Information in the footnote at the bottom of page 47, 10.2 Form B, indicates that the temperature for item (7) can be either determined from a temperature detector or derived from measurement of the stator resistance during the test. Because items (4) and (7) are used to calculate stator loss at different temperatures, it is preferred that the method of measuring both items be consistent. In addition, per subclause 4.2.3 Note 2 and subclause 4.3.2.2 Note 2, the values for t_s and t_t, which are used for correction to a specified temperature, are to be based on the same method of measurement. Therefore, the Department proposes to add a second sentence to the footnote at the bottom of page 47, 10.2 Form B, to read: ''The values for t_s and t_t shall be based on the same method of temperature measurement, selected from the four methods in subclause 8.3.''

c. *Page 48, item (27) defines Stator I^2R Loss, in W, at (t_s)°C, and item (29) defines Corrected Slip, in r/min,* on IEEE 112–1996 10.2 Form B. Page 48, item (29) currently reads: ''See 4.3.2.2, Eq 4.'' The Department believes that such reference, without explanation, to equation (4) in subclause 4.3.2.2, *Slip correction for temperature,* can cause confusion and errors, since the terms in equation (4) used to correct slip measurements to the specified stator temperature, are defined differently from similar terms used in 10.2 Form B.

Subclause 4.3.2.2 equation (4) defines ''k'' in terms of conductivity for copper or aluminum. The term ''k'' in 10.2 Form B, however, is defined in terms of torque. Item (29) should be defined in terms of conductivity using the term ''k_1'', to be consistent with the definition of ''k_1'' in 10.2 Form B item (16).

Also, calculating ''S_t'' and ''t_t'' for subclause 4.3.2.2 equation (4) would cause unnecessary recalculations and possible errors, because these values were already derived elsewhere on Form B. Equation (4) defines ''S_t'' as ''the slip measured at stator winding temperature, t_t,'' whereas the actual value of slip speed would have already been measured and entered at item (10) on Form B. Similarly, in equation (4) ''t_t'' is defined as ''the observed stator winding temperature during load test, in °C,'' whereas the actual value of stator winding temperature would have already been measured and entered at item (7) on Form B.

Subclause 4.3.2.2 equation (4) also defines ''t_s'' as the specified temperature for resistance correction, in °C. However, Form B, does not define ''t_s''. While ''t_s'' appears to be used in item (27), Form B, the use of ''t_s'' is incorporated by providing the equation for the adjustment of the resistance corresponding to ''t_s'', rather than by defining ''t_s'' itself. However, the relationship representing ''t_s'' in item (27) on page 48 appears to differ from the definition of ''t_s'' given in 4.2.3. The Department is concerned about the various definitions given for ''t_s'' in the body of IEEE 112 and in 10.2, Form B and the correction of the stator and rotor losses. Examination of 10.2 Form B and the supporting sections of IEEE–112 indicate the following:

1. The stator loss for item (16) is based on correcting the cold resistance in item (1) at the cold temperature in item (2) to a resistance as if the complete winding is at the test temperature in item (7) for each test point. Generally, this means that 6 different values of resistance are used in calculating the initial stator loss.

2. The rotor loss for item (18) is calculated using the measured slip item (10) which already directly includes the effect of temperature so no equation involving temperature is needed.

3. For item (27) it is indicated on the test form that the corrected stator loss is to be based on a temperature identified as ''t_s''. In IEEE 112–1991 no formula for this correction of the resistance to determine the loss was provided, so the counterpart of 5.1.1, IEEE 112–1996, was used in conjunction with the counterpart of equation [1] in 4.2.3, IEEE 112–1996. (The section references from IEEE 112–1996 are used instead of the actual section numbers in IEEE 112–1991 to minimize confusion with the rest of the discussion.) To do this the reference resistances and temperatures were again the cold readings as in paragraph 1 above and the hot temperature was the specified temperature from 5.1.1. In IEEE–1996 a formula was added to item (27) stating that the reference resistance to be used is to be the hot resistance measured after the heat run and the reference temperature to be used is the temperature measured at the conclusion of the heat run. Now the temperature to be used for correcting the stator loss is not the specified temperature given in 5.1.1 if the temperature in item (4) is measured directly by a temperature sensor, but instead is the reference temperature from the heat run adjusted for the difference between the heat run

ambient and an ambient of 25 °C [i.e., (4) − (5) + 25]. This change is described in 6.4.3.2. If the temperature in item (4) is instead derived from the hot resistance measured after the heat run as per 8.3.3 then the relationship of [(4) − (5) + 25] is equal to the specified temperature per 5.1.1. However, in 6.4.3.2 it is assumed that item (4) is from a direct temperature measurement and should not be a value derived from the resistance of the heat run. In this case the corrected resistance used in determining the corrected stator loss for each of the six test points is the same.

4. In item (31) on the test form it is also indicated that the rotor loss is corrected to the temperature t_s. This is accomplished by temperature correction of the slip in item (29). For item (29) one is referred to 4.3.2.2, Eq. 4. In 4.3.2.2 it is indicated that t_s is to be the specified temperature from 5.1.1. However, in 6.4.3.3 it is stated that t_s is to be equal to the ''hottest winding temperature during the temperature test corrected to an ambient of 25 °C.'' This definition of t_s corresponds to the definition given in 6.4.3.2 for the correction of the stator loss, which leads one to the formula for item (27) and the relationship that the value to be used for t_s is to be that given by [(4) − (5) + 25] and not the specified temperature as given by 5.1.1. For the correction of the slip a different value of correction may be necessary for each of the six test points since the correction is based on the temperature at the time each test point is taken.

In conclusion, section 6.4.3.2 for the correction of the stator loss and 6.4.3.3 for the correction of the rotor loss define the correction to be to a temperature t_s which is not the specified temperature t_s given by 5.1.1. In fact, the specified temperature per 5.1.1 does not appear to be used in any of the calculations performed for Method B.

To clarify the temperatures to be used for correcting the stator and rotor loss the Department proposes the following modifications: (1) insert a new line at the top of 10.2 Form B and below the line that defines ''rated load heat run stator winding resistance,'' which will define ''t_s'' as it is defined in 6.4.3.2 and 6.4.3.3: ''Temperature for Resistance Correction (t_s) = ____ °C (See 6.4.3.2);'' (2) add a note at the bottom of 10.2 Form B to read: ''NOTE: The temperature for resistance correction (t_s) is equal to [(4) − (5) + 25 °C];'' (3) add the reference ''see 6.4.3.2'' to the end of item (27) on page 48; and (4) change item (29) on page 48 which presently states ''See 4.3.2.2, eq. 4'' to state ''Is equal to (10) • [k_1 + (4) − (5) + 25 °C] / [k_1 + (7)], see 6.4.3.3''.

d. *Page 48, item (32), the equation to correct stray-load loss* currently reads: ''Is equal to AT^2 where A = slope of the curve of (26) vs. $(23)^2$ using a linear regression analysis, see 6.4.2.7,'' and ''T = corrected torque = (23).'' The Department understands that the slope A is that of the aforementioned curve corresponding to a plot using item (26) as the dependent variable on the y axis, and the square of item (23) as the independent variable on the x axis. The Department also understands that reference to subclause 6.4.2.7, *Smoothing of the stray-load loss,* provides tutorial information with respect to the determination of the slope A using linear regression analysis. The Department understands that under ideal test conditions the linear regression line should intercept the y axis at zero stray load loss for zero torque squared, since the only losses which should remain will be stator I^2R, friction, and core losses previously accounted for by the no-load test.

The Department has been advised that typically ideal test conditions do not exist, and that either the y-intercept is above zero, indicating that some apparent measured loss should be subtracted; or the y-intercept is below zero, indicating that some undetected loss should be added. The Department has also been advised that it is possible, at the same time, to have a positive slope, a correlation equal to or greater than 0.9, and a sizable intercept with the stray load loss axis at zero load conditions. The Department is concerned that, when this is the case, a large portion of losses could be incorrectly subtracted off yielding an artificially high efficiency or incorrectly added on yielding an artificially low efficiency.

It also appears, however, that the purpose of the stray load loss correction in 10.2 Form B item (32), is to detect possible errors in measurement and correct for them, without repeating the test. Also, repeating a load test when the intercept is large in order to obtain a test for which the intercept is smaller, might not result in a significant change in the final determination of efficiency at 100 percent load. The Department understands that the value of the intercept must be viewed in the context of the remainder of the test workup. Thus, in 10.2 Form B, when the stray load loss is corrected in item (32), then the final torque, or shaft power in item (34), is also corrected after using item (23) in the formula AT^2 where ''T = corrected torque = (23).'' Instructions are provided, in IEEE 112, at the bottom of page 48 under *Motoring,* for interpolation of the test results to complete the *Summary of Characteristics* on page 47, at the bottom of 10.2 Form B, in order to determine the efficiency at the actual 100 percent rated load point.

Also, the nominal full load efficiency identified on the nameplate of an electric motor is selected from a prescribed nominal efficiency in NEMA Standards Publication MG1–1993, section 12.58.2, Table 12–8, which is not greater than the average efficiency of a large population of motors of the same design. Moreover, the nominal efficiency of a covered electric motor must equal or exceed the efficiency values in section 342(b)(1) of EPCA. Consequently, unless there are significant differences in the final determination of nominal efficiency for a particular electric motor, it appears that use of a prescribed nominal full load efficiency value would tend to ''wash out'' small variations in individual motor losses and errors in test equipment calibration.

Therefore, at this time, the Department intends to adopt IEEE 112–1996, subclause 6.4.2.7, *Smoothing of the stray-load loss,* without change. However, the Department is still considering the option of making the following changes to add a restriction on the allowable value of the intercept, and will do so if the Department determines, in the final rule, that the evidence warrants such a change. The restriction would replace the paragraph after the definition of variables for equation (21), in subclause 6.4.2.7, and would be worded as follows (emphasis added to indicate changes):

''If the slope is negative, or if the correlation factor, r, is less than 0.9, delete the worst point and repeat the regression. If this increases r to 0.9 or larger, use the second regression; *if this does not increase r to 0.9 or larger,* or if the slope is still negative, the test is unsatisfactory. Errors in the instrumentation or test readings, or both, are indicated. *In addition, the value of B must not exceed 10 percent of the uncorrected total loss at rated load; higher values indicate procedural or power supply problems. If a test fails to meet the above criteria,* the source of the error should be investigated and corrected, and the test should be repeated.''

The Department requests comments on this issue, and is interested in receiving data that would show if any significant differences[3] do occur

[3] Oftentimes what appears as a large intercept is the result of improperly performing the dynamometer correction part of the test. By

Continued

between the final determined value of efficiency at 100 percent rated load for various values of the stray-load loss intercept for repeated tests of the same motor.

e. *Page 17, subclause 6.4.1.3,* ''No-load test,'' second sentence currently reads: ''Prior to making this test, the machine shall be operated at no-load until both the temperature and the input have stabilized.'' Information provided to the Department indicates that the requirements for temperature and input stabilization during the no-load test appear to be undefined and could cause confusion. To provide clarity for locating the pertinent subclause for temperature stabilization, the Department proposes to modify the second sentence in 6.4.1.3 to read: ''Prior to making this test, the machine shall be operated at no-load until both the temperature has stabilized (see 8.6.3) and the input has stabilized.'' The Department finds that an additional modification for input stabilization is not necessary, since that is covered by previous reference to subclause 5.3 that, in turn, refers to subclause 4.3.1.1, *Bearing loss stabilization.*

3. Incorrect Information

Page 40, subclause 8.6.3, Termination of test, currently reads: ''For continuously rated machines, readings shall be taken at intervals of ½ h[our] or less.'' One reason for taking these readings during the efficiency test of a motor is to show when the motor's temperature rise has ended, and so that the test can be terminated. As written, however, subclause 8.6.3 allows temperature readings to be taken at intervals of, for example, five seconds. If such short intervals were used, there could be little or no rise in temperature between any two consecutive readings, even if the motor temperature was actually still rising. Consequently, the motor's temperature could be misconstrued as being stable. As a result, the measured efficiency would appear to be two to three percentage points higher than it actually is, since efficiency goes down as temperature goes up. In view of the need to correctly determine the leveling of temperature rise for measuring efficiency, as the Department believes is intended in subclause 8.6.3, the Department proposes to change the third sentence in subclause 8.6.3. Subclause 8.6.3 currently reads: ''For continuous rated machines, the temperature test shall continue until there is 1°C or less change in temperature rise between two successive readings.'' The Department proposes to change that subclause to read: ''For continuous rated machines, the temperature test shall continue until there is 1°C or less change in temperature rise over a 30-minute time period.''

In sum, the Department believes that use of IEEE 112–1996 Test Method B, without corrections, could produce results that provide an inaccurate measurement of the energy efficiency of the motor being tested, and that vary from one test to the next of the same motor or comparable motors. In addition, manufacturers would be burdened by having to resolve its typographical errors and unclear provisions, and deal with unnecessary references to other parts of IEEE 112. Therefore, the Department intends to adopt, in the final rule for electric motors, the test procedures in IEEE 112–1996 Test Method B, and the correction to the calculation at item (28) in section 10.2 Form B-Method B issued by IEEE on January 20, 1998, but with the aforementioned corrections and modifications. The Department seeks comments on the technical merits of, and the need for, the aforementioned corrections and modifications to the IEEE 112. If the record should indicate that any of these changes is unwarranted, the Department will decline to adopt such modification. Thus, the Department might still adopt IEEE 112–1996 Test Method B, and the correction to the calculation at item (28) in section 10.2 Form B-Method B, without modification, or with only a portion of the above modifications.

Finally, interested parties are also invited to identify other problems they believe exist in IEEE 112 Test Method B and section 10.2 Form B. The Department requests that such other problems, and changes to correct them, be clearly identified, and that evidence be provided that substantiates the need for these changes.

B. Sampling Plans for Compliance and Enforcement

1. Background

As per the proposed rule at 10 CFR 431.24, the efficiency of each basic model of electric motor would initially be established either by testing (''compliance testing'') or by application of an Alternative Efficiency Determination Method (AEDM), for purposes of determining whether the motor complies with the applicable efficiency standard, and of labeling the motor. 61 FR 60466–67 (November 27, 1996). As per the proposed rule at 10 CFR 431.127, the Department would ascertain in any enforcement proceeding, which could include testing (''enforcement testing''), whether a motor complies with the applicable EPCA standard and with the labeled value for efficiency.[4] 61 FR 60472 and 60474–75 (November 27, 1996). Each of these sections incorporates a sampling plan for testing a motor. The sampling plans are intended to provide statistically meaningful sampling procedures for conducting tests, so as to reduce the testing burden while giving sufficient assurance (1) that the true mean energy efficiency of a basic model (i.e., the average efficiency of all units manufactured) meets or exceeds the applicable energy efficiency standard established in EPCA, and (2) that an electric motor found to be in noncompliance will actually be in noncompliance. The November 27, 1996 **Federal Register** notice, at section XIII.C.3. and 8., *Issues for Public Comment,* requested comments on the proposed sampling plans for compliance and enforcement testing.

During the January 15, 1997, public hearing on the proposed rule for electric motors, the National Electrical Manufacturers Association (NEMA) and motor manufacturers raised issues concerning the Department's proposed sampling plans for electric motors. They asserted that the sampling plan for compliance testing would, for example: (1) be inconsistent with current industry practice under NEMA Standards Publication MG1–1993, ''Motors and Generators,'' (2) place a high burden on manufacturers because the risk of a false determination of noncompliance is not less than 50 percent for motors that are in compliance, and (3) require covered equipment to be engineered to *exceed* the nominal energy efficiency levels for electric motors established by EPCA; they also claimed the sampling plan for enforcement testing was not in harmony with the sampling plan for compliance testing. (Public Hearing, Tr. pgs. 64–111).[5] Thereafter, NEMA submitted to the Department a proposed sampling

definition the dynamometer correction adjusts all data points by the same amount of torque which is basically the same thing that occurs when the intercept of the stray load loss curve is adjusted to go through zero. Should there be a great discrepancy between the values for the intercept obtained for testing the same motor several times using the same equipment, then this would suggest a more fundamental problem of following the procedure correctly than just errors in the measurements.

[4] Part II–D below addresses the issue of whether the proposed enforcement procedures apply to alleged labeling violations.

[5] ''Public Hearing, Tr. pgs. 64–111,'' refers to the page numbers of the transcript of the ''Public Hearing on Energy Efficiency Standards, Test Procedures, Labeling, and Certification Reporting for Certain Commercial and Industrial Electric Motors,'' held in Washington, DC, January 15, 1997.

plan for compliance testing and a proposed plan for enforcement testing.[6] NISTIR 6092 ''Analysis of Proposals for Compliance and Enforcement Testing Under the New Part 431; Title 10, Code of Federal Regulations,'' January 1998, (the NIST analysis) compares the DOE's proposed rule and NEMA proposals through model calculations of their operating characteristics, i.e., the estimated probability of demonstrating compliance for a given true average of efficiency.

Although the Department continues to consider adoption of the sampling plans in the NOPR, it is now also considering adoption of the NEMA proposals, or variants of these proposals, in place of the sampling proposals in the NOPR. It is also considering adoption of a modified version of the NOPR sampling plan for enforcement. The Department seeks comment on these alternatives to the NOPR's sampling plans.

2. The Proposals Under Consideration

In the NOPR, the Department proposes that when a manufacturer tests a basic model of an electric motor[7] to establish its efficiency, a sample of units of the motor, comprised of production units or representative of production units, shall be selected at random and tested. The proposed rule does not specify a particular sample size, but provides that the sample must be of sufficient size so that any represented value of energy efficiency is no greater than the lower of (A) the mean of the sample or (B) the lower 90 percent confidence limit of the mean of the entire population of that basic model, divided by a coefficient applicable to the represented value. The coefficient applicable to a given represented value is derived from NEMA MG1–1993, Table 12–8.

In the NOPR, the Department proposed to establish a sampling plan for enforcement testing based on NEMA MG1–12.58.2, Efficiency of Polyphase Squirrel-cage Medium Motors with Continuous Ratings, and NEMA MG1 Table 12–8, Efficiency Levels, which establish a logical series of nominal motor efficiencies and a minimum associated with each nominal. The minimum efficiency is based on 20 percent loss difference. Under this proposed sampling plan, the motor would be found in compliance provided (1) the mean of the sample is not less than a lower confidence limit and (2) the sample is of sufficient size to provide a statistical confidence that is not less than 90 percent. The lower confidence limit is found within the sampling plan by calculation and is based on the EPCA efficiency standard that is applicable to that basic model, the sample standard deviation for the initial sample, and the *t* value corresponding to the 10th percentile for the initial sample. In all cases, the lower confidence limit lies below the EPCA standard efficiency. DOE's proposed sampling plan for enforcement testing assumes that the true mean full load efficiency and standard deviation of the motor efficiencies are not known. The proposed sampling plan establishes benchmarks for the standard error in the mean, based on the existing NEMA guidelines for identifying motor efficiency levels at NEMA MG1–12.58, and NEMA Table 12–8. Under the NEMA guidelines, no single unit can have energy losses more than 20 percent greater than the average losses for that type of motor, i.e., a 20 percent loss tolerance is permitted for a given unit but the average must still be met. The NOPR states the Department's belief that the 20 percent loss tolerance is reasonable and meaningful. 61 FR 60459–60, 60474–75 (November 27, 1996).

The NEMA proposal, as stated above, contains a sampling plan for compliance testing as well as one for enforcement testing. The plan for compliance testing provides that two conditions must be met to establish that a motor meets a particular nominal efficiency level. First, according to DOE's understanding, the average full load efficiency of the sample of units tested must not be less than the value of efficiency that equals the applicable nominal efficiency reduced by an amount equivalent to a 5 percent increase in losses at full load, i.e., the value given by

$$\frac{100}{1+1.05\left(\frac{100}{NE}-1\right)}$$

Second, DOE understands, the full-load efficiency of each motor in the sample must be greater than the value of efficiency equal to the applicable nominal efficiency reduced by an amount reduced by an amount equivalent to a 15 percent increase in losses at full load, i.e., the value given by

$$\frac{100}{1+1.15\left(\frac{100}{NE}-1\right)}$$

NEMA's plan for enforcement testing is very similar, and provides that the same conditions must be met to establish that a motor complies with the applicable EPCA standard, except that the percentages are based on the total variation in energy efficiency permitted by NEMA MG–1.[8] The NEMA plans neither specify nor suggest sample sizes.

In support of these plans, the NEMA proposal discusses a number of issues, including: the analyses of testing samples from a total and from a limited population of motors, the implications of overlapping nominal efficiency distributions, and NEMA's proposed sampling schemes for compliance and enforcement. The NEMA proposal claims to balance the manufacturer's and consumer's risks and to streamline sampling schemes for compliance testing and enforcement testing.

The NIST analysis examines each of the sampling plans contained in the NOPR and the NEMA proposal, and certain variations of those sampling plans. NISTIR 6092 assumes that a basic model of an electric motor satisfies the applicable energy efficiency requirement in EPCA if the mean full load efficiency of the entire population of motors of that basic model equals or exceeds the applicable nominal efficiency. It compares the NOPR and NEMA proposals through model calculations of their operating characteristics, i.e., by estimating the probability of demonstrating compliance for a model of electric motor where the true average efficiency of that model is known. NISTIR 6092 seeks to clarify the issues raised from testimony and comments given during the public hearing, January 15, 1997. It provides both a qualitative comparison of the operating characteristics of the NOPR

[6] ''Proposal for the Method of Determining Compliance and Enforcement for Electric Motors Under the Efficiency Labeling Program of DOE 10 CFR Part 431,'' NEMA Motor and Generator Section, Friday, April 18, 1997 (Docket No. EE–RM–96–400, No. 23) (the ''NEMA proposal'').

[7] For electric motors, *basic model* would mean all units of an electric motor that are manufactured by a single manufacturer, and which have the same rating, have electrical characteristics that are essentially identical, and do not have any differing physical or functional characteristics which affect energy consumption or efficiency. For purposes of this definition, ''rating'' means one of the 113 combinations of an electric motor's horsepower (or standard kilowatt equivalent), number of poles, and open or enclosed construction, with respect to which section 431.42 prescribes nominal full load efficiency standards. 61 FR 60465 (November 27, 1996).

[8] Thus, for enforcement testing DOE understands the conditions for establishing compliance to be as follows: (1) the average full load efficiency of the sample of units tested must not be less than the value of efficiency that equals the applicable nominal efficiency prescribed by EPCA, reduced by an amount equivalent to a 15 percent increase in losses at full load, i.e., the value given by 100/[1+1.15(100/NE − 1)], and (2) the full-load efficiency of each motor in the sample must be greater than the value of efficiency equal to the applicable nominal efficiency prescribed by EPCA, reduced by an amount equivalent to a 20 percent increase in losses at full load, i.e., the value given by 100/[1+1.20(100/NE − 1)].

and NEMA proposals and a quantitative estimate of the risk, or statistical confidence, associated with testing under such proposals.

Based on the NIST analysis the Department is considering the following with respect to the final rule for electric motors:

(1) DOE could adopt the NEMA proposal for compliance testing rather than the method given in DOE's proposed rule. Alternatively, DOE could adopt the NEMA proposal, but could substitute a coefficient of 1.03 or 1.01 for the 1.05 coefficient in the formula above. DOE could also adopt the NEMA proposal, with or without a change in the 1.05 coefficient, but with a requirement that the number of sample units to be tested be fixed, at five motors for example.

The Department understands the advantages in simplicity and reduced burden on manufacturers presented by the NEMA sampling proposal for compliance testing, but believes there is a higher risk, relative to the NOPR criteria, of overly optimistic estimates of efficiency. The Department believes that the 1.05 coefficient proposed by NEMA could be changed to 1.01, for example, and this would substantially reduce the risk under the NEMA proposal that a motor failing to meet the energy efficiency standard prescribed in EPCA would nevertheless be found in compliance. Also, the Department understands that the performance of the NEMA proposal for compliance testing depends on the sample size. It appears to DOE that a fixed sample size of 5 motors would not be unduly burdensome and would provide the statistical confidence needed for determining whether an electric motor complies with the applicable EPCA standard, for labeling that motor, and for using test results as a basis for substantiating alternative methods used to determine the efficiencies of other motors.

(2) With regard to enforcement testing, DOE could adopt NEMA's proposal, with or without modification of the coefficient, or could retain the NOPR Sampling Plan for Enforcement Testing with the statistical confidence level increased from 90 percent to 99 percent, or to some other value higher than 90 percent.

NEMA asserts that the NOPR sampling plan for enforcement is not consistent with the NOPR sampling plan for compliance, claiming the possibility is too great that a motor found in compliance under the enforcement plan would have been found in non-compliance under the compliance plan. The NIST analysis indicates, however, that the sampling criteria proposed by NEMA for enforcement testing make little distinction between efficiencies that are at and significantly below the EPCA nominal values. Also, the NEMA sampling plan for enforcement could produce draconian results. Under the NEMA criteria, the efficiency performance of a *single unit* could cause a basic model to fail the entire test, without recourse.

As proposed, the NOPR Sampling Plan for Enforcement Testing establishes that testing be consistent with a statistical confidence of not less than 90 percent. This statistical confidence implies that the likelihood of falsely concluding that a product is not in compliance may be as high as 10 percent. According to the NIST analysis, the NOPR Sampling Plan for Enforcement Testing could be modified to increase the confidence level from 90 to 99 percent. Although this modification could require testing a larger sample of motors, it would reduce the risk that a manufacturer would be falsely found in non-compliance. NIST believes it is highly unlikely that a product that is labeled in accordance with the NEMA MG1 guidelines would require testing beyond the initial sample of five, and that any risk of additional testing is more than offset by the increased value of the test in assuring that a manufacturer's interest is protected. Moreover, the Department understands that, in contrast to the NEMA sampling plan for enforcement testing, the *t*-test used in the NOPR is a widely accepted basis for a testing protocol and is not strongly influenced by the exact form of the underlying distribution of energy efficiency measurement data.

The Department of Energy is interested in receiving comments and data concerning the accuracy and workability of the NEMA Motor and Generator Section proposals for sampling electric motors for compliance and enforcement, and would welcome recommendations regarding improvements to NEMA's suggested approaches, particularly in the following respects:

(1) *Compliance.* The Department seeks comments on variations to NEMA's proposed sampling plan for compliance, such as requiring the sample size to be fixed at five units and setting the coefficient at 1.01 or 1.03. Are further clarifications needed in the plan? For example, if a sample of five units of a basic model of electric motor is selected and fails compliance after being tested, under what circumstances, if any, would additional samples of the same basic model be selected and retested?

(2) *Enforcement.* Would the absolute pass/fail nature of the NEMA Motor and Generator Section proposal create an undue burden on motor manufacturers? What is an appropriate level of confidence for enforcement testing? If the NEMA Motor and Generator Section proposal for enforcement testing was to be adopted, should the 1.15 and 1.2 coefficients for the mean and the extreme criteria, respectively, be modified? If so, what other values are recommended?

C. Sampling Requirements Where a Motor's Efficiency Is Established Through a Certification Organization

Section 345(c) of EPCA, 42 U.S.C. 6316(c), directs the Department to require motor manufacturers to certify compliance with the applicable energy efficiency standards through an independent testing or certification program nationally recognized in the United States and, as is further discussed below, EPCA requires that, subject to certain conditions, a motor's nameplate and marketing materials include its efficiency. Accordingly, the proposed rule, at sections 431.24, 431.25(a), 431.82, and 431.123(b), 61 FR 60466–67, 60470–71, requires manufacturers to certify and label the efficiency level of each basic model of electric motor based on use of either (i) a third party independent testing laboratory accredited by a nationally recognized accrediting body, such as the National Voluntary Laboratory Accreditation Program (NVLAP), (ii) the manufacturer's own testing laboratory, if it is accredited by a nationally recognized accrediting body, such as NVLAP, or (iii) a nationally recognized third party certification program.

Under section 431.24(a) of the proposed rule, the energy efficiency of each basic model of electric motor must be determined by compliance testing or by application of an alternative efficiency determination method (AEDM) which calculates the energy efficiency of an electric motor. Use of an AEDM is permitted, however, only if the efficiency of at least five basic models, selected in accordance with criteria specified in section 431.24(b)(1)(i)–(ii), is determined through compliance testing. For each basic model selected for testing, section 431.24(b)(1)(iii) in the proposed rule provides, as discussed above, a sampling procedure for selecting units to be tested. Moreover, to use a particular AEDM, it must (1) meet certain general criteria specified in section 431.24(b)(2), and (2) be applied to at least five basic models that have

been selected and tested in accordance with the criteria in proposed section 431.24(b)(1), with the total power loss predicted for each of these models by the AEDM being within plus or minus ten percent of the mean total power loss determined from the testing (section 431.24(b)(3)). Finally, section 431.24(b)(4) requires subsequent periodic verification of an AEDM by (1) testing by an accredited laboratory, (2) a nationally recognized certification organization or (3) an independently state-registered professional engineer.

As currently written, the proposed regulations impose these requirements both when a manufacturer seeks to establish a motor's efficiency without using a certification program (i.e., solely through testing and AEDMs) and also when efficiency is established through a certification program.

In its comments following the NOPR, Reliance Electric recommends that the Department not impose DOE's sampling plan for compliance testing when a manufacturer establishes compliance through a third party certification program. Reliance asserts that the testing and sampling procedures of a certification program, such as the Canadian Standards Association (CSA) in Canada, are reliable and fulfill the Department's intent that a sampling plan give assurance that the nominal full load efficiency reported is correct. (Reliance, No. 11 at pg. 7.) NEMA also recommends that the Department's sampling plan requirements not apply when compliance is certified through a recognized certification program. NEMA asserts, however, that the certification program's specific criteria and plan for testing should be reviewed and approved by the Department as part of the process of reviewing its petition to become a ''nationally recognized'' certification program, as described in section 431.27(b)(4) of the proposed rule. (NEMA, No. 18 at pgs. 8 & 9.)

It appears to the Department that these comments from Reliance Electric and NEMA have substantial merit. Therefore, although it continues to consider the approach in the proposed rule, the Department also proposes for consideration that the final rule provide as follows: when a manufacturer establishes a motor's efficiency under EPCA through a certification organization, the certification organization would not be required to (1) select basic models for testing in accordance with the final rule's criteria for making such selections,[9] or (2) follow the sampling provisions that the final rule requires for compliance testing.[10] The other requirements in proposed section 431.24(b) for testing and for use of an AEDM would still have to be met. For example, the certification organization would be required to establish the efficiency of at least five basic models through compliance testing. By way of further example, an AEDM could not be used unless it had been applied to at least five basic models that had been tested, and the results of such application were within the bounds prescribed in the proposed rule. Furthermore, the Department proposes that the final rule provide that the criteria used by a certification program to select basic models for testing, as well as its sampling plan for choosing the units to be tested, will be reviewed and approved by the Department as part of the evaluation for national recognition under section 431.27(b) of the proposed rule. Finally, proposed section 431.24(b)(4)(i)(B) requires verification of an AEDM subsequent to its use, stating that one way to achieve such verification is for a certification organization to certify the efficiency of a basic model to which the AEDM was applied. To provide the independent AEDM verification that this provision contemplates, the Department proposes that, when a manufacturer has used a certification organization to establish a motor's efficiency rating, and the rating is based on an AEDM, the AEDM cannot be subsequently verified by having that same certification organization certify the efficiency of the motor.

The Department seeks comments on whether it should adopt the foregoing proposals, or whether it should adopt the approach in the proposed rule, i.e., that certification organizations be required to adhere to the provisions specified in the rule for the selection and sampling of basic models. In particular, the Department seeks comment on the following:

1. *Sampling for compliance testing.* The Department seeks comments on whether a certification organization should be required to select basic models for compliance testing in accordance with criteria such as those in proposed section 431.24(b)(1)(i)–(ii). Once a basic model is selected, should a certification organization select specimens to be tested in accordance with a prescribed sampling plan? The Department of Energy is also interested in receiving comments and data concerning the workability of sampling plans used by certification organizations, and how such sampling plans could be evaluated.

2. *Substantiation and Verification of an AEDM.* To substantiate the accuracy and reliability of an AEDM, five basic models must be tested. When this is done through a certification program, should the certification program be required to select and test the basic models in accordance with criteria such as those proposed in section 431.24(b)(1)? Should the same certification organization, used to initially substantiate an AEDM under section 431.24(b)(3), be prohibited from subsequently verifying an AEDM under section 431.24(b)(4)(i)(B)?

D. Enforcement Testing Where Violation of a Labeling Representation Is Alleged

Section 344(f) of EPCA provides for the Secretary to prescribe rules for electric motor labeling, including requirements that the energy efficiency be on the permanent nameplate and be displayed prominently in catalogs and other marketing materials. Section 431.82 of the proposed rule incorporates and implements these provisions, by requiring each electric motor's nominal full load efficiency to be marked clearly on its permanent nameplate and to be prominently displayed in marketing materials for the motor. Section 431.127(a) in the proposed rule, which sets forth enforcement procedures, provides that the Department may conduct enforcement testing, subject to certain conditions, to ascertain the accuracy of the efficiency rating disclosed on the nameplate or in marketing materials for an electric motor, as well as to determine whether the motor is in compliance with the applicable energy efficiency standard.

Other provisions of the proposed rule, however, as well as language in the preamble, can be read as suggesting that the enforcement provisions apply only in determining compliance with the applicable standard, and not to whether a labeling representation is accurate. Under proposed section 431.127(a)(1), for example, enforcement testing is pursued after a manufacturer has had an opportunity to ''verify compliance with the applicable efficiency standard.'' 61 FR 60472. Verification of a label's accuracy is not mentioned. Moreover, the sampling procedures for enforcement testing set forth steps to assess compliance with the ''applicable statutory full load efficiency,'' and refer to whether a basic model being tested is in ''compliance'' or ''noncompliance.'' 61 FR 60474–75. But no language in these sampling procedures indicates that they are to be used to assess the accuracy of a labeling representation as

[9] In the proposed rule, such criteria are in section 431.24(b)(1)(i)–(ii).

[10] In the proposed rule, such sampling provisions are in section 431.24(b)(1)(iii).

to efficiency. The preamble indicates that the purpose of the enforcement sampling plan is to ascertain whether the mean efficiency of a basic model is equal to or exceeds the statutory full load efficiency. 61 FR 60459.

In response to the proposed rule, Mr. W. Treffinger asserts that testing and sampling should ensure that the published and nameplate data represent the actual efficiency of a motor in use. (Treffinger, No. 4 at 5.) NEMA asserts that certification programs for motors currently verify the nameplate efficiency. (NEMA, No. 18 at pg. 8.)

In proposing the enforcement procedures in section 431.127, the Department intended that they would apply to allegations that the labeled efficiency rating for a motor is erroneous. Moreover, the Department continues to believe that these procedures, including the proposed sampling plan at section 431.127(c), should be used to determine the validity of labeling representations for an electric motor, and not just whether the motor meets or exceeds the regulatory standard for efficiency. The Department intends to make clear in the final rule that the provisions of section 431.127 apply to labeling representations. However, because the NOPR was not clear on this point, the Department seeks comments whether the proposed enforcement procedures should be used to determine the validity of labeling representations, or should only be used only to determine if the motor meets the applicable efficiency level prescribed by EPCA. If the latter, on what basis would a determination be made, during an enforcement investigation, as to the validity of labeling representations?

E. National Recognition

Section 345(c) of EPCA requires that compliance be certified through a testing or certification program that is ''nationally recognized.'' The proposed rule provides that this requirement would be met (1) by a testing facility that has been accredited either by NVLAP or by an accrediting body that DOE classifies as nationally recognized to accredit facilities to test motors for efficiency, or (2) by a certification program that DOE has classified as nationally recognized. In the proposed rule at section 431.26, *Department of Energy recognition of accreditation bodies*, and section 431.27, *Department of Energy recognition of nationally recognized certification programs*, the Department proposes criteria and procedures under which it would make such classifications.

Neither section 431.26 nor 431.27 addresses a situation where DOE has classified an organization as an accreditation body, or as a nationally recognized certification program, and the organization subsequently ceases to comply with the conditions for such classification. Therefore, the Department proposes that the final rule would provide that the Department will notify such an accreditation body or a certification organization if the Department believes the entity is failing to comply with the conditions of section 431.26 or 431.27, respectively, and at the same time the Department will request that appropriate corrective action be taken. The rule would also provide that the accreditation body or certification organization would be given an opportunity to respond, and if, after receiving such response, the Department believes satisfactory correction has not been made, the Department would withdraw its recognition from that organization. If an accreditation body or certification organization wishes to withdraw itself from recognition by the Department, it could do so by advising the DOE in writing. The Department seeks comments on whether the Department should adopt the foregoing approach for corrective action, and for revocation of an organization's classification as an accreditation body or nationally recognized certification program under sections 431.26 and 431.27.

III. Conclusion

The Department seeks comments only on the aforementioned issues arising from possible changes in the NOPR concerning test procedures, sampling for compliance and enforcement, verification of labeled efficiency, and recognition of accreditation bodies and certification organizations.

Issued in Washington, DC, on June 9, 1998.

Dan W. Reicher,

Assistant Secretary for Energy Efficiency and Renewable Energy.

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Thursday
June 25, 1998

Part V

Department of the Interior

Office of Surface Mining and Reclamation and Enforcement

30 CFR Parts 707 and 874

Abandoned Mine Land (AML) Reclamation Program; Enhancing AML Reclamation; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 707 and 874

RIN 1029–AB89

Abandoned Mine Land (AML) Reclamation Program; Enhancing AML Reclamation

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing revisions to its rules regarding the financing of Abandoned Mine Land reclamation (AML) projects that involve the incidental extraction of coal. Projections of receipts to the AML fund through the year 2004, when the authority to collect fees will expire, strongly indicate that there will be insufficient money to address all problems currently listed in the Abandoned Mine Land Inventory System. Given these limited AML reclamation resources, OSM is seeking an innovative way for AML agencies, working with contractors, to maximize available funds to increase AML reclamation.

The first revision would amend the definition of *government-financed construction* to allow less than 50 percent government funding when the construction is an approved AML project under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The existing definition requires a minimum government contribution of 50 percent to exempt government-financed construction from regulation under SMCRA.

The second revision would add a new section which would require specific consultations and concurrences with the Title V regulatory authority for AML construction projects receiving less than 50 percent government financing. These consultations and concurrences are intended to ensure the appropriateness of the project being undertaken as a Title IV AML project and not under the Title V regulatory program.

DATES: *Written comments:* We will accept written comments on the proposed rule until 5 p.m., Eastern time, on July 27, 1998.

Public hearings: Upon request, we will hold public hearings on the proposed rule at dates, times and locations to be announced in the **Federal Register** before the hearings. We will accept requests for public hearings until 5 p.m., Eastern time, on July 6, 1998. Individuals wishing to attend, but not testify at, any hearing should contact the person identified under **FOR FURTHER INFORMATION CONTACT** before the hearing date to verify that the hearing will be held.

ADDRESSES: If you wish to comment, you may submit your comments on this proposed rule by any one of several methods. You may mail or hand deliver comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW, Washington, D.C. 20240. You may also comment via the Internet to OSM's Administrative Record at: osmrules@osmre.gov.

You may submit a request for a public hearing orally or in writing to the person and address specified under **FOR FURTHER INFORMATION CONTACT**. The address, date and time for any public hearing held will be announced prior to the hearings. Any disabled individual who requires special accommodation to attend a public hearing should also contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: D.J. Growitz, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW, Washington, D.C. 20240; *Telephone:* 202–208–2634. E-Mail: dgrowitz@osmre.gov.

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I. Public Comment Procedures

Thirty (30) Day Comment Period

In view of the extensive outreach activity for this rulemaking and in order to expedite the rulemaking, OSM will allow a 30-day comment period in lieu of the usual 60 days. In October 1997, OSM prepared a preproposal draft of the AML Enhancement Rule. The draft proposal, similar to this proposed rule, was distributed extensively. We mailed the draft to over 200 parties, including industry, State agencies, environmental groups, and individuals. We also announced the availability of the document through a press release, notice in the **Federal Register**, OSM web site and fax-on-demand, and we provided for a 30-day comment period. Twenty-four people submitted written comments. In addition to seeking comments through our normal process, we will mail a copy of this proposed rule to each of the earlier commenters.

Written Comments

Written or electronic comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments. Comments received after the close of the comment period (see **DATES**) or delivered to an address other than listed above (see **ADDRESSES**), may not be considered or included in the Administrative Record for the final rule.

Public Hearings

We will hold a public hearing on the proposed rule upon request only. The time, date, and address for any hearing will be announced in the **Federal Register** at least 7 days prior to the hearing.

Any person interested in participating at a hearing should inform Mr. Growitz (see **FOR FURTHER INFORMATION CONTACT**), either orally or in writing, of the desired hearing location by 5:00 p.m., Eastern time, on July 6, 1998. If no one has contacted Mr. Growitz to express an

interest in participating in a hearing at a given location by that date, a hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held, with the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. The hearing will be transcribed. To assist the transcriber and ensure an accurate record, we request that each person who testifies at a hearing provide the transcriber with a written copy of his or her testimony. To assist us in preparing appropriate questions, we also request, if possible, that each person who plans to testify submit to us at the address previously specified for the submission of written comments (see **ADDRESSES**) an advance copy of his or her testimony.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: RIN 1029–AB89'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 202–208–2847.

We will make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name or address, except for the city or town, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations of businesses, available for public inspection in their entirety.

II. Background

A. What is the AML Reclamation Program?

Title IV of SMCRA established the AML Reclamation Program in response to concern about extensive environmental damage caused by past coal mining activities. The program is funded primarily from a fee collected on each ton of coal mined in the country. This fee is deposited into a special fund, the Abandoned Mine Land Fund (Fund), and is appropriated annually to address abandoned and inadequately reclaimed mining areas where there is no continuing reclamation responsibility by any person under State or Federal law. Under Title IV, the funding of reclamation projects is subject to a priority schedule with emphasis first focused on sites affecting public health, safety, general welfare and property. In contrast, Title V establishes a program for regulating active mining and reclamation.

In most cases, the implementation of both Title IV and Title V authority has been delegated to States. Depending upon each State's internal organizational structure, the Title IV and Title V programs in many cases are carried out by separate State authorities.

Currently, 23 States and 3 Indian Tribes (the Hopi, the Navajo and the Crow) have authority to receive grants from the Fund and are implementing Title IV reclamation programs in accordance with 30 CFR Subchapter R and through implementing guidelines published in the **Federal Register** on March 6, 1980 (45 FR 27123), and revised on December 30, 1996 (45 FR 68777). In States and on Indian lands that do not have a Title IV program, reclamation is carried out by OSM.

B. How Do States and Indian Tribes Implement Their Programs?

State and Indian Tribe AML programs are funded at 100 per cent by OSM from money appropriated annually from the AML Fund. The States and Indian Tribes must submit grant applications in accordance with procedures established by OSM and existing grant regulations found at 30 CFR 886. They must certify with each grant that the requirements of all applicable laws and regulations are met, including the Clean Water Act, the Clean Air Act, the National Historic Preservation Act, and the Endangered Species Act. They may only undertake projects that are eligible for funding as described in either section 404 or section 411 of SMCRA and which meet the priorities established in section 403 of SMCRA. OSM requires that the State Attorney General or other chief legal officer certify that each reclamation project to be undertaken is an eligible site.

Certain environmental, fiscal, administrative and legal requirements must be in place in order for a program to receive grants for reclamation. An extensive description of these requirements can be found at 30 CFR 884, but certain of those are mentioned here to highlight the safeguards the AML program has in place. For example, the agency must have written policies and procedures which outline how they will comply with the requirements of SMCRA and implementing regulations in conducting a reclamation program, how projects will be ranked for reclamation priority, how the public will be given an opportunity to comment on proposed reclamation projects and how it will comply with all applicable Federal and State laws and regulations.

The State or Indian Tribe chooses individual projects based upon the selection criteria in its reclamation program. While these criteria differ among programs, they all consider the priority of the problem, public opinion regarding the project, cost effectiveness, technical feasibility and how the area will be used once reclaimed.

State and Tribal programs seek public input in several ways. For example, some AML programs require that a notice requesting comments on proposed reclamation be published in newspapers of general circulation in the area to be reclaimed. Some publish newspaper notices asking the public to identify potential reclamation sites. Others have public meetings to discuss upcoming reclamation or to identify potential sites. Still other programs seek public input about reclamation activities or potential sites through **Federal Register** notices.

OSM does not approve individual projects, but before construction begins on any project, OSM must ensure that all requirements of the National Environmental Policy Act of 1969 (NEPA) are met. Once OSM assures that the project complies with NEPA, it provides an authorization to proceed on the project.

OSM annually reviews the State and Tribal AML programs to ensure that all program requirements are properly met, including site eligibility, proper financial policies and procedures, and reclamation accomplishments. State and Tribal agencies and OSM also review completed projects to determine the success of AML reclamation. Completed projects may be revisited as part of a site-specific contract, as part of an annual post-construction evaluation, or as otherwise specified under the State or tribal AML reclamation program's maintenance plan.

Further, AML reclamation programs evaluate selected completed AML reclamation projects to determine how effective the overall reclamation program has been. Normally, these evaluations are annual, random samples of many types of reclamation, such as reclaimed subsidence areas, eliminated landslides, sealed openings and removed refuse piles. State and tribal programs would be responsible to prevent abuse of this proposal and could use a monitoring program such as this on all projects completed with less than 50 percent government-financing

to ensure that no problems arise after construction. As warranted in the judgment of the State or tribal AML authority, the frequency of these post-construction evaluations could be reduced.

C. Why Is the Rule Being Proposed?

In some States, there will never be enough public money to abate all of the most serious AML sites—those which present an extreme danger to human health, safety and welfare. The Abandoned Mine Land Inventory estimates the cost to reclaim these most serious sites to be over 2.6 billion dollars. Beyond these highest priority sites, there are thousands of other AML sites which meet the AML eligibility requirements and pose a serious environmental threat. This proposal would facilitate the reclamation of some of these sites at less cost to the government by allowing the sale of coal extracted as an incidental part of the reclamation project to offset the overall cost of reclamation.

D. What is the Statutory Authority for This Rulemaking?

Three sections in SMCRA outline the eligibility requirements for sites being considered for funding under the AML program. They are sections 404, 402(g)(4)(B)(i), and 402(g)(4)(B)(ii). Section 403 of SMCRA establishes priorities for the expenditures from the AML Fund on eligible sites. An otherwise eligible site must meet one of the five priorities of Section 403(a)(1)–(5) in order to be funded.

Section 413(a) of SMCRA provides the Secretary with the ''power and the authority, if not granted it otherwise, to engage in any work and to do all things necessary or expedient, including the promulgation of rules and regulations, to implement and administer the provisions of this [Title IV].''

This proposed rule change is limited in its application to the AML program and is necessary and expedient for OSM and the States and Tribes to more efficiently and effectively carry out the reclamation mandate established by Congress. This statutory authority allows OSM to propose revisions to the AML program that will provide States and Tribes the authority to reduce project costs to the maximum extent practical on abandoned mine sites which have deposits of coal or coal refuse remaining. Thus, the proposed rule change would allow for more program-wide reclamation for the same level of program funding.

In addition, Congress specifically provided under section 528(2) of SMCRA that SMCRA would not apply to activities involving the ''extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under regulations established by the regulatory authority.'' Thus, Title V permitting requirements do not apply to areas from which coal is extracted as an incidental part of a government-financed operation. Because AML reclamation projects are government financed, they qualify as government-financed construction under section 528(2).

E. How Would This Proposal Work?

In many cases eligible AML sites contain recoverable coal that was either left in the ground when the site was abandoned or that remains at the site in the form of coal refuse or other waste. While this coal may have some market value, it is often sufficiently marginal that coal mine operators are not willing to assume the financial burden of mining and reclaiming the site as a permitted Title V operation.

To the extent that the extraction of coal would be necessary to accomplish the reclamation of an approved AML project, the extraction would be incidental to that project. This concept conforms to existing regulation at 30 CFR 707.5. Coal extracted outside the predetermined boundaries or whose extraction is not necessary for reclamation will be subject to Title V permitting provisions. Both the boundaries for reclamation projects, and the amount of coal which must be removed for the prescribed reclamation will be decided by the AML agency and will be clearly identified in the reclamation contract.

Under current regulations and guidelines, proceeds from the sale of incidental coal must be applied to offset the contract price. Coal extraction must be monitored carefully because proceeds must be kept below half the original total price since no more than 50 percent of the total contract can come from non-government sources. In many cases, when the amount gained from the sale of incidental coal exceeds more than 50 percent of the contract, the contract can not be executed and the reclamation is not done. Under the proposal, contractors would be allowed to sell incidental coal and keep the proceeds from the sale of incidental coal. Contractors would reflect this anticipated sale of coal in the bid price for the contract.

Under the proposed rule, less public funds would be required to accomplish the same level of AML reclamation. This would result in the availability of more AML Fund monies for a greater number of AML reclamation projects. Further discussion as to how the proposed rule would facilitate increased reclamation under Title IV can be found in Part II. G. in this preamble.

This proposal would not have any effect on existing AML program requirements. The eligibility for AML projects, the procurement systems which States and Indian Tribes use to contract for AML reclamation, and all Federal or State requirements that otherwise pertain to AML projects would all remain the same. The proposal would not be mandatory for the States or Indian Tribes if they choose not to approve AML projects with less than 50% government-financing.

F. What is the Relationship Between the AML Agency and the AML Contractor?

The relationship between the AML agency and the AML contractor under the proposed rule would remain the same as for any approved reclamation project. Actual construction is usually done under a site-specific contract between the reclamation agency and third-party contractors. These contracts clearly outline the scope of work for each project, the cost, the time frames involved, how the contractor will be paid and penalties for failure to meet the contractual obligations by either party. The content of the contracts, along with bidding and selection procedures, performance bonding requirements and other contractual matters are established within each program in accordance with State or Tribal laws.

The AML agency ensures the contractor's conformance with applicable procedures through site visits and other monitoring techniques. If the contractor does not meet the terms of the contract, the AML agency invokes the penalties contained in the contract and allowed by law.

Each contract sets forth any unique features for the project to be reclaimed and any site-specific criteria for that project. For example, a project to address water quality problems will outline the acceptable pH or sediment levels for the water or sediment, the monitoring period associated with the treatment, whether wetlands will be created, any projected effects on wildlife and any particular environmental impacts at the site or on adjacent properties. Sediment and water quality control plans are to provide for adequate environmental protection during the construction phase of the reclamation project as well as after its completion.

When contracts are written, the AML reclamation agency can require that a project pass specific requirements after

reclamation. For example, a contract could specify that a retaining wall provide protection for a highway for a three-year period. The contract could also specify that, should the highway fail, the contractor must return to repair the damage. The frequency and extent of follow-up by the AML reclamation agency is written into the contract.

The reclamation contract would set forth the amount and extent of incidental coal which could be extracted. AML contractors removing coal outside those contract parameters could be subject to immediate termination of their AML contracts, forfeiture of any performance and reclamation bonds, and all other remedies provided by law for breach of contract.

G. How Would This Proposed Rule Facilitate More Reclamation Under Title IV?

The rule would decrease the cost to the public for reclaiming many abandoned problem sites where reclamation requires the incidental extraction of coal. This coal may be in the form of previously undisturbed coal formations or coal refuse. While the overall cost for the reclamation of these sites would remain the same, in each case the public cost would be reduced under this proposal because a larger percentage of the total project cost, *i.e.*, over 50 percent, would be financed by the AML contractor through sale of the coal recovered from the site.

Also, because certain government-financed AML construction projects would cost the AML agencies less under this proposal than under the current definition of government-financed construction, which requires at least 50 percent government funding, the savings could be allocated to funding additional AML projects. Thus, the AML agency could accomplish more reclamation with the same amount of program funding.

The following example, for illustrative purposes only, outlines the process by which extraction of incidental coal under our proposal could reduce the cost for Title IV reclamation at an AML eligible site.

Example: After the requisite consultation and concurrences with the Title V regulatory authority, the AML agency announces a contract solicitation to receive bids for the reclamation of a refuse pile contributing sediment and acid mine drainage to local streams. Prior to the solicitation, the AML agency estimates the total cost of reclaiming the refuse pile (removing it to another site and revegetating both sites) at $500,000. This figure would include a $50,000 allowance for administrative expenses such as project design and project monitoring. Based on existing chemical analysis of the refuse pile, including BTU information, estimates place the net market value of the incidental coal in the refuse pile (after transportation, cleaning, royalty costs, etc.) at $400,000. The estimated net cost for the project would then be $100,000 ($500,000–$400,000). Based on these estimates, project bids from contractors would be in the $100,000 range subject to the condition that the extracted incidental coal would become the property of the contractor. Thus reclamation of a project that would ordinarily cost the AML agency $500,000 without contractor sale of incidental coal, or that would cost the agency at least $250,000 under the existing rule requiring at least 50 percent government funding, would cost only about $100,000 under our proposal.

If the contract is awarded, the contractor would be fully responsible for the completion of the work regardless of his return on the sale of incidental coal.

This proposal should result in the reclamation of certain AML sites which commonly contribute acid mine drainage (AMD) or other environmental problems far beyond their realty boundaries and which have little likelihood of otherwise being reclaimed under current Title IV regulations or being mined under Title V of SMCRA. These sites would not likely be reclaimed under the Title IV program because limited AML funds would ordinarily be directed to higher priority reclamation. Nor would these sites likely be mined under the Title V regulatory program due to their marginal coal reserves and/or potential for significant long-term liability for the ever-present AMD or other problems which may exist at the site. Beyond the refuse piles discussed above, other examples of AML sites where reclamation could involve the extraction of incidental coal include previously deep-mined areas needing to be daylighted to remove remaining pillars and highwalls needing a second cut to remove acid-producing coal deposits.

H. Could Private Organizations (e.g., Watershed Groups) Assist in AML Reclamation Efforts?

Yes. AML agencies can form partnerships with industry, private citizens and other government agencies to help address AML problems. Partnerships such as those developed under the Clean Stream's Initiative are an example of how these outside groups can assist in reclaiming lands. Outside funds can also be contributed for specific AML projects as allowed by law.

I. Will This Proposal Result in Environmental Abuses?

We do not believe that this proposal will result in environmental abuses. Under the AML program the percentage of government funding for reclamation of an eligible site does not adversely impact the quality of the reclamation of that site. The AML agency selects individual sites from the Abandoned Mine Land Inventory using its priority system. The AML agency then develops the reclamation parameters for that site and includes them in its reclamation contract. The AML agency, not the AML contractor or the owner of the coal, establishes these parameters. The AML agency oversees the reclamation and ensures adherence to the contract requirements. These requirements would dictate or stipulate that any coal extraction that occurs be incidental to the construction work, *i.e.*, is limited to only that which is necessary to carry out the prescribed reclamation in order to address the identified health, safety or environmental problem.

J. How Would an AML Agency Approve Reclamation Projects Under the Proposed Rule?

Like any other AML project, reclamation projects involving the incidental extraction of coal and reduced government funding levels would have to meet the requirements specified in 30 CFR Subchapter R. AML projects are not selected by the contractor. The AML agency has total control over every project specification from design, to bidding, to final reclamation completion. The selection of reclamation sites by the AML agency is based on the need to protect the public health and safety or environment from the adverse effects of past mining activities. A particular site could be selected only after the AML agency has determined that private industry was unable or unwilling to remine and reclaim the site as a Title V operation, and the State Attorney General or other legal officer has certified that the project meets the eligibility requirements specified in State or Indian Tribe counterparts to Title IV.

OSM is expressly prescribing certain procedures to be followed to prevent potential abuses of the reduced funding level provisions. First, the AML agency, in consultation with the Title V regulatory authority, would determine whether the site would be appropriate for AML reclamation activities based on the likelihood of extracting the coal under a Title V permit. In addition, the Title V regulatory authority and the Title IV AML agency would concur on the boundaries of the AML project and on the extent and amount of the coal to be incidentally extracted during the reclamation project. This delineation of coal would include only that portion of the total coal at the site that must be extracted in order to remediate the particular hazard or environmental problem caused by past mining.

Through this proposal we hope to target long-standing AML problem sites. The proposal is not designed to address

sites involving redisturbance and subsequent reclamation of abandoned mine lands, such as highwalls and outslopes that have become environmentally stable over the years and pose no other problems.

K. What Would be the Consequence of AML Contractors Removing Coal Outside the Limits Authorized by the AML Project?

AML contractors removing coal outside those contract parameters could be subject to immediate termination of their AML contracts, forfeiture of any performance and reclamation bonds, and all other remedies provided by law for breach of contract.

III. Discussion of Proposed Rule

A. What Would Be the Change in definition of Government-Financed Construction at Section 707.5?

OSM is proposing to amend the definition of *government-financed construction* in § 707.5 of the permanent program regulations by allowing for a lower percentage of financing from OSM or other AML reclamation agencies for government construction sites under Title IV reclamation which involve the incidental extraction of coal. A government agency includes a State or Indian Tribe with an approved Title IV program under the definition of agency found at 30 CFR 870.5. For those States and Indian Tribes that do not have approved Title IV programs, a government agency means OSM or its designated State agent.

Reclamation projects are funded from several sources. Some of these sources include private individuals who donate time and money, environmental groups, utilities, industry and government funding under the AML program. Under the current definition of *government-financed construction*, the government's financial share of the AML reclamation must be at least 50 percent of the total project cost. This percentage restriction limits the ability of AML agencies to undertake certain reclamation projects because there may be insufficient AML funds to accomplish all necessary reclamation in a State or on Tribal land and funds must be prioritized for maximum impact. By reducing the government share required for AML projects, OSM and the States and Indian Tribes would maximize existing AML funds and work cooperatively and in partnership with industry, citizens, and the environmental community to bring about reclamation that otherwise might never be accomplished. In addition to reducing the required government share for AML projects, we have rewritten the definition of government-financed construction in the ''Plain English'' style in order to improve its clarity. The ''Plain English'' rewriting is not intended to effect any substantive changes to the existing definition.

B. What is the Change in Information Collection for Section 707.10?

OSM proposes to revise section 707.10 which contains the information collection requirements for Part 707. The proposed revision changes the justification for the current exemption from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) The revised basis for this exemption is that the information required to be maintained in section 707.12 consists only of information that would be provided by persons in the normal course of their business activities.

C. What are the Information Collection Requirements for Section 874.10?

OSM also proposes to add a § 874.10 which contains the information collection requirements for Part 874 and the Office of Management and Budget (OMB) clearance number. The proposed addition includes the estimated reporting burden per project for complying with the new information collection requirements contained in this proposed rulemaking.

D. What is the Purpose Behind Proposed Section 874.17?

This new section would outline the procedures an AML agency would need to follow in approving AML projects receiving less than 50 percent government funding because of planned coal extraction incidental to the reclamation.

E. How Would the Consultation in Section 874.17(a) Work?

The consultation process under proposed 874.17(a) would require the AML agency to consult with the regulatory authority to determine the likelihood of the coal being mined under a Title V permit. The purpose of this consultation would be to ensure that the AML program and funds are not used for activities that should properly be permitted and regulated under Title V. Through this consultation process OSM intends that AML funds be directed only to eligible sites.

OSM believes the information upon which the ''likelihood of the coal being mined under a Title V permit'' determination is made should be information that is reasonably available. We have listed certain kinds of information that we believe would be available and also helpful in reaching a decision on whether or not to proceed with the project under the AML program. These examples of ''available'' information are not exhaustive. Each site will present a different set of circumstances and problems which are best addressed on a case-by-case basis. We are leaving it to the experience and technical and professional judgment of the Title IV and Title V officials within each jurisdiction to decide if an abandoned mine land site should be mined under a Title V permit or reclaimed under the Title IV AML program. Those decisions will continue to be monitored by OSM through its oversight of the respective programs.

Under this section, the AML agency would also consult with the regulatory authority to determine the likelihood for potential problems and impacts arising between Title IV reclamation projects and adjacent or nearby Title V operations when such Title V operations are present. The purpose of this provision is to identify problems at an early stage and to establish the reclamation responsibility. An example is where there might be a hydrologic connection between nearby or adjacent Title IV and Title V activities. In such cases, OSM believes it is essential to ensure that responsibility for environmental problems, such as acid mine drainage arising from a permitted Title V activity but impacting a Title IV activity, remains with the Title V permittee. Conversely, a Title V permittee would not be responsible for any environmental problems stemming from a Title IV reclamation activity.

F. What Types of Concurrences Between the AML Agency and the Regulatory Authority Would Be Required in § 874.17(b)?

If the AML agency decides to proceed with the reclamation project after consulting with the Title V regulatory authority, then the two must concur in determinations as to: (1) the extent and amount of any coal refuse, coal waste, or other coal deposits, the extraction of which would be covered by the Part 707 exemption or counterpart State and Tribal laws and regulations, and (2) the delineation of the boundaries of the AML project. These determinations are intended to ensure that only the amount of coal needed to accomplish the reclamation is covered by the Part 707 exemption. This coal would be exempt from the reclamation fee payment.

G. Under § 874.17(c) How Would the AML Agency Document the Results of the Consultation and the Concurrences With the Title V Regulatory Authority?

The AML agency would document in the AML case file the determinations as to the likelihood of coal at the site being mined under a Title V permit and the likelihood of interactions between AML activities and nearby or adjacent Title V activities that might create new environmental problems or adversely affect existing situations. Furthermore, the AML agency would document the information used for making these determinations and the names of the responsible agency officials.

H. What Special Requirements Would Apply for Qualifying § 874.17(d) Reclamation Projects?

Proposed paragraph 874.17(d)(2) would expressly require that qualifying AML reclamation projects comply with provisions for State and Tribal reclamation plans and grants found at 30 CFR Subchapter R. The required compliance with Subchapter R is intended to ensure that the incidental coal extraction projects authorized under this rulemaking would be accomplished in accordance with the substantial safeguards of the AML program. These safeguards include such things as: public participation and involvement; environmental evaluation to achieve compliance with the National Environmental Policy Act of 1969; and use of appropriate State or Tribal procurement procedures and regulations as authorized under the grant common rule at 43 CFR 12.76.

Further, to provide increased protections to the AML fund and to citizens or landowners who might be affected by the project, we are including three additional requirements to qualifying § 874.17(d) reclamation projects. Paragraph (d)(1) would require the AML agency to characterize the site in terms of existing hydrologic and other environmental problems. Paragraph (d)(3) would require the AML agency to develop site-specific reclamation and contractual provisions such as performance bonds to ensure that the reclamation is completed. Paragraph (d)(4) would require the contractor to provide documents that authorize the extraction of the coal and payment of royalties to the mineral owner or other applicable party. The purpose of these requirements is to ensure that before a contract is awarded, there is a valid coal lease authorizing the contractor to extract the coal. The lease would identify the party responsible for paying the royalty, the amount of the royalty, and the party receiving the royalty.

I. What Must the Contractor Do if He or She Extracts More Coal Than Is Specified in § 874.17(b)?

Section 874.17(e) would require the contractor to obtain a permit under Title V for the extraction of any coal not included in the paragraph (b)(1) Part 707 exemption. Such coal extraction would not be incidental to the AML reclamation project and thus would be subject to all the Title V requirements. The reclamation contract between the AML agency and the contractor therefore should clearly set forth the extent and amount of coal covered by that exemption, as concurred in by the Title V regulatory authority under paragraph 874.17(b)(1).

IV. Procedural Determinations

1. Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

2. Regulatory Flexibility Act

The Department of the Interior certifies 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.*). This determination is based on the findings that the regulatory additions in the rule will not change costs to industry or to the Federal, State, or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. It would allow AML agencies to work in partnership with contractors to leverage finite AML Reclamation Fund dollars to accomplish more reclamation. To offset the reduction in government funding, the contractor would be allowed to sell coal found incidental to the project and recovered as part of the reclamation. Participation under the rule change is strictly voluntary and those participating are expected to do so because of the economic benefit.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions because the rule does not impose any new requirements on the coal mining industry or consumers, and State and Indian AML program administration is funded at 100 percent by the Federal government.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises for the reasons stated above.

4. Unfunded Mandates

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. The administration of the AML program by a State or Indian Tribe is funded at 100 percent by the Federal Government and the decision by a State or Indian Tribe to participate is voluntary. A statement containing the information required by the Unfunded Mandates Reform Act (1 U.S.C. 1531, *et seq.*) is not required.

5. Executive Order 12630—Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. The rule would allow AML agencies to work in partnership with contractors to leverage finite AML Reclamation Fund dollars to accomplish more reclamation. To offset the reduction in government funding, the contractor would be allowed to sell coal found incidental to the project and recovered as part of the reclamation.

6. Executive Order 12612—Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment for the reasons discussed above.

7. Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

In accordance with 44 U.S.C. 3507(d), OSM has submitted the information collection and record keeping requirements of 30 CFR Part 874 to the Office of Management and Budget (OMB) for review and approval.

Part 874 establishes land and water eligibility requirements, reclamation objectives and priorities and reclamation contractor responsibility. This proposal would add a new section at 30 CFR 874.17 titled ''AML Agency Procedures for Reclamation Projects Receiving Less than 50 percent government funding.'' This section would require consultation between the AML agency and the appropriate Title V regulatory authority on the likelihood of removing the coal under a Title V permit and concurrences between the AML agency and the appropriate Title V regulatory authority on the AML project boundary and the amount of coal that would be extracted under the AML reclamation project. This section would also require compliance with 30 CFR Subchapter R and related provisions to insure that adequate environmental safeguards are considered and followed during AML reclamation project.

Need for and Use: OSM, State and Tribal regulatory authorities use the information collected under 30 CFR Part 874 to ensure that appropriate reclamation projects involving the incidental extraction of coal are conducted under the authority of section 528(2) of SMCRA and that selected projects contain sufficient environmental safeguards.

Respondents: The 26 State regulatory authorities and Indian Tribes who will be reviewing and consulting on between 20 and 80 plus reclamation projects involving the incidental removal of coal that OSM and State regulatory authorities are expected to initiate each year.

Total Annual Burden: For each project OSM estimates that two persons will need a total average of 16 hours to review information during the consultation phase of section 874.17 (a)(1) and (2); that two persons will need a total average of 4 hours to make the determinations required during the concurrence phase of section 874.17(b)(1) and (2); that one person will need an average of 1 hour for the file documentation requirement of section 874.17(c) and that one person will need an average of 6 hours to determine the special environmental and site reclamation requirements. The total burden for each project is estimated to be 27 hours. The estimated total annual burden for 30 CFR 874.17 ranges from a low of 540 hours to a maximum of more than 2,160 hours, averaging 1,500 hours annually. Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of OSM and State regulatory authorities, including whether the information will have practical utility;

(b) The accuracy of OSM's estimate of the burden of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of collection on the respondents. Under the Paperwork Reduction Act, OSM must obtain OMB approval of all information and record keeping requirements. No person is required to respond to an information collection request unless the form or regulation requesting the information has a currently valid OMB control (clearance) number. The control number will appear in section 874.10. To obtain a copy of OSM's information collection clearance request, explanatory information, and related form, contact John A. Trelease at (202) 208–2783 or by e-mail at jtreleas@osmre.gov.

By law, OMB must submit comments to OSM within 60 days of publication of this proposed rule, but may respond as soon as 30 days after publication. Therefore, to ensure consideration by OMB, you must send comments regarding these burden estimates or any other aspect of these information collection and record keeping requirements by July 27, 1998, to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503.

9. National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) of this proposed rule and has made a tentative finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. section 4332(2)(C). It is anticipated that a finding of no significant impact (FONSI) will be made for the final rule in accordance with OSM procedures under NEPA. The EA is on file in the OSM Administrative Record at the address specified previously (see **ADDRESSES**). The EA will be completed and a finding made on the significance of any resulting impacts before we publish the final rule.

10. Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 874.17 AML agency procedures for reclamation projects receiving less than 50 percent government funding.). (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov

11. Authors

D.J. Growitz and Danny Lytton, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

List of Subjects

30 CFR Part 707

Highways and roads, Incidental mining, Reporting and recordkeeping

requirements, Surface mining, Underground mining.

30 CFR Part 874

Reclamation, Surface mining, Underground mining.

Dated: June 19, 1998.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons given in the preamble, OSM proposes to amend 30 CFR Parts 707 and 874 as set forth below:

PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENT TO GOVERNMENT-FINANCED HIGHWAY OR OTHER CONSTRUCTION

1. The authority citation for Part 707 continues to read as follows:

Authority: Secs. 102, 201, 501, and 528 of Pub. L. 95–87, 91 Stat. 448, 449, 467, and 514 (30 U.S.C. 1202, 1211, 1251, 1278).

2. In § 707.5, the definition of *Government-financed construction* is revised to read as follows:

§ 707.5 Definitions.

* * * * *

Government-financed construction means construction funded 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Title IV of the Act. Construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments does not qualify as government-financed construction.

3. Section 707.10 is revised to read as follows:

§ 707.10 Information collection.

Since the information collection requirement contained in 30 CFR 707.12 consists only of expenditures on information collection activities that would be incurred by persons in the normal course of their activities, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C.3501 *et seq.*) and does not require clearance by OMB.

PART 874—GENERAL RECLAMATION REQUIREMENTS

4. The authority citation for Part 874 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

5. Section 874.10 is added to read as follows:

§ 874.10 Information collection.

(a) In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements of this part. The OMB clearance number is 1029–XXXX. This information is needed to ensure that appropriate reclamation projects involving the incidental extraction of coal are conducted under the authority of section 528(2) of SMCRA and that selected projects contain sufficient environmental safeguards. Persons must respond to obtain a benefit.

(b) OSM estimates that the public reporting burden for this part will average 27 hours per project, including time spent reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these information collection requirements, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue, N.W., Washington, DC 20240; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Please refer to OMB Control Number 1029–XXXX in any correspondence.

6. Section 874.17 is added to read as follows:

§ 874.17 AML agency procedures for reclamation projects receiving less than 50 percent government funding.

This section tells you, the AML agency, what to do when considering an abandoned mine land reclamation project as government-financed construction under part 707 of this chapter. This section only applies if the level of funding for the construction will be less than 50 percent of the total cost because of planned coal extraction.

(a) *Consultation with the Title V Regulatory Authority.* In consultation with the Title V regulatory authority, you must make the following determinations:

(1) You must determine the likelihood of the coal being mined under a Title V permit. This determination must take into account available information such as:

(i) Coal reserves from existing mine maps or other sources;

(ii) Existing environmental conditions;

(iii) All prior mining activity on or adjacent to the site;

(iv) Current and historic coal production in the area; and

(v) Any known or anticipated interest in mining the site.

(2) You must determine the likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

(3) You must determine the likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

(b) *Concurrence with the Title V Regulatory Authority.* If, after consulting with the Title V regulatory authority, you decide to proceed with the reclamation project, then you and the Title V regulatory authority must concur in the following determinations:

(1) You must concur in a determination of the extent and amount of any coal refuse, coal waste, or other coal deposits which can be extracted under the part 707 exemption or counterpart State/Indian Tribe laws and regulations.

(2) You must concur in the delineation of the boundaries of the AML project.

(c) *Documentation.* You must include in the AML case file:

(1) The determinations made under paragraphs (a) and (b) of this section;

(2) The information taken into account in making the determinations; and

(3) The names of the parties making the determinations.

(d) *Special requirements.* For each project, you must:

(1) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance;

(2) Ensure that the reclamation project is conducted in accordance with the provisions of 30 CFR Subchapter R;

(3) Develop specific-site reclamation requirements, including performance bonds when appropriate in accordance with State procedures; and

(4) Require the contractor conducting the reclamation to provide applicable documents that clearly authorize the extraction of coal and payment of royalties.

(e) *Limitation.* If the reclamation contractor extracts more coal than specified in paragraph (b)(1) of this section, the contractor must obtain a permit under Title V of SMCRA.

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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

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

S. 423/P.L. 105–182

To extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason. (June 19, 1998; 112 Stat. 516)

S. 1244/P.L. 105–183

Religious Liberty and Charitable Donation Protection Act of 1998 (June 19, 1998; 112 Stat. 517)

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