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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1631

Availability of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a final rule amending the Board's Freedom of Information Act regulations to implement the Electronic Freedom of Information Act Amendments of 1996. The rule provides for expedited processing of certain requests and enlarges the time for responding to initial requests. The rule also provides the address for the Board's electronic reading room and adds a category of documents to be made available in the reading room. In addition, the rule updates the fees charged to search for records.

EFFECTIVE DATES: September 4, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005; (202) 942–1662; FAX (202) 942–1676.

SUPPLEMENTARY INFORMATION: Section 4 of the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), Pub. L. 104–231, section 4, 110 Stat. 3048, 3049, amended 5 U.S.C. 552(a)(2) to require Federal agencies to make documents available in electronic form. In accordance with this requirement, the rule amends 5 CFR 1631.4 to provide the address of the Board's electronic reading room. The Board maintains a reading area with paper documents that is open to the public. The Board also maintains a business Web site at http://www.frtib.gov which contains, in addition to business information, its electronic reading room. The Board maintains a Web site at http://www.tsp.gov to provide program information about the Thrift Savings Plan, and that site is linked to the business site. Both Web sites contain documents in readily accessible electronic form which can be downloaded by the requester. In accordance with the EFOIA, the Board will add to its reading area and Web site those records that it determines are repeatedly requested under the Freedom of Information Act (FOIA). A list of such records will be maintained on the Board's business Web site.

Section 3 of the EFOIA, 110 Stat. at 3051–52, amended 5 U.S.C. 552(a)(E)(6) to require Federal agencies to promulgate rules on expedited processing of FOIA requests in cases of compelling need or in other cases determined by the agency. To implement this requirement, the rule adds new paragraphs (f) and (g) to 5 CFR 1631.6 to set forth the circumstances under which the Board will honor a request for expedited processing and establishes procedures for expediting requests. The rule amends 5 CFR 1631.8(a) to advise that a determination whether to provide expedited processing of a request will be made within 10 work days. The Board normally processes FOIA requests on a first-in, first-out basis. If a request for expedited processing is approved, that request will be processed ahead of other requests. In addition, the rule amends 5 CFR 1631.8(b) and (c) to implement the new 20-day time limit for responding to initial requests for records and to provide procedures the Board will follow if additional time is needed to process a request for records.

The rule amends 5 CFR 1631.10 to provide procedures for processing appeals of requests for expedited processing, to distinguish procedures for handling a request for expedited processing from procedures for processing an appeal of a request for records, and to state that an appeal from the denial of a request for expedited processing will be handled within five work days of receipt in the Office of General Counsel.

The rule also amends 5 CFR 1631.11 and 1631.14 to increase the benefits factor which, along with the employee's salary, determines the amount the Board will charge to search for records. Sections 1631.11 and 1631.14 currently provide for charging the salary rate of the employee who conducts the search plus 16 percent for benefits. The benefits factor was set at 16 percent based on an Office of Management and Budget FOIA fee schedule and guidelines published in the **Federal Register** on March 27, 1987 (52 FR 10012, 10013), and it has not been revised since that time. For Board employees, the current benefits rate is 23.5 percent. Included in this rate are retirement contributions, Social Security taxes, health and life insurance premiums, and lump sum awards and bonuses.

Finally, 5 CFR 1631.18 is amended to address the new annual reporting requirement imposed by section 10 of the EFOIA, 110 Stat. at 3053–54, which will be codified at 5 U.S.C. 552(e).

In the June 1, 1998, **Federal Register** (63 FR 29672), the Board published a proposed rule with these amendments. No comments were received; therefore, the Board is publishing this rule as a final rule without change.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They require the Board to disclose information in certain instances and to address when and the form in which information will be disclosed.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Under the Unfunded Mandates Reform Act of 1995, section 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. These regulations will not compel the expenditure in any one year of $100 million or more by any State, local, and tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects in 5 CFR Part 1631

Administrative practice and procedure, Courts, Freedom of information, Government employees.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, 5 CFR Part 1631 is amended to read as follows:

PART 1631—AVAILABILITY OF RECORDS

1. The authority citation for part 1631 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. Section 1631.4 is amended by revising paragraph (a) to read as follows:

§ 1631.4 Public reference facilities and current index.

(a) The Board maintains a public reading area located in room 4308 at 1250 H Street, NW, Washington, DC. Reading area hours are from 9:00 A.M. to 5:00 P.M., Monday through Friday, exclusive of Federal holidays. Electronic reading room documents are available through http://www.frtib.gov. In the reading area and through the Web site, the Board makes available for public inspection, copying, and downloading materials required by 5 U.S.C. 552(a)(2), including documents published by the Board in the **Federal Register** which are currently in effect.

* * * * *

3. Section 1631.6 is amended by adding new paragraphs (f) and (g) to read as follows:

§ 1631.6 How to request records—form and content.

* * * * *

(f) When a person requesting expedited access to records has demonstrated a compelling need, or when the Board has determined that it is appropriate to expedite its response, the Board will process the request ahead of other requests.

(g) To demonstrate compelling need in accordance with paragraph (f) of this section, the requester must submit a written statement that contains a certification that the information provided therein is true and accurate to the best of the requester's knowledge and belief. The statement must demonstrate that:

(1) The failure to obtain the record on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) The requester is a person primarily engaged in the dissemination of information, and there is an urgent need to inform the public concerning an actual or alleged Federal Government activity that is the subject of the request.

4. Section 1631.8 is revised to read as follows:

§ 1631.8 Prompt response.

(a)(1) When the FOIA Officer receives a request for expedited processing, he or she will determine within 10 work days whether to process the request on an expedited basis.

(2) When the FOIA Officer receives a request for records which he or she, in good faith, believes is not reasonably descriptive, he or she will so advise the requester within 5 work days. The time limit for processing such a request will not begin until receipt of a request that reasonably describes the records being sought.

(b) The FOIA Officer will either approve or deny a reasonably descriptive request for records within 20 work days after receipt of the request, unless additional time is required for one of the following reasons:

(1) It is necessary to search for and collect the requested records from other establishments that are separate from the office processing the request (e.g., the record keeper);

(2) It is necessary to search for, collect, and examine a voluminous amount of records which are demanded in a single request;

(3) It is necessary to consult with another agency which has a substantial interest in the determination of the request or to consult with two or more offices of the Board which have a substantial subject matter interest in the records; or

(4) It is necessary to devote resources to the processing of an expedited request under § 1631.6(f).

(c) When additional time is required for one of the reasons stated in paragraph (b) of this section, the FOIA Officer will extend this time period for an additional 10 work days by written notice to the requester. If the Board will be unable to process the request within this additional time period, the requester will be notified and given the opportunity to—

(1) Limit the scope of the request; or

(2) Arrange with the FOIA Officer an alternative time frame for processing the request.

5. Section 1631.10 is revised to read as follows:

§ 1631.10 Appeals to the General Counsel from initial denials.

(a) When the FOIA Officer has denied a request for expedited processing or a request for records, in whole or in part, the person making the request may, within 30 calendar days of receipt of the response of the FOIA Officer, appeal the denial to the General Counsel. The appeal must be in writing, addressed to the General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005, and be clearly labeled as a ''Freedom of Information Act Appeal.''

(b)(1) The General Counsel will act upon the appeal of a denial of a request for expedited processing within 5 work days of its receipt.

(2) The General Counsel will act upon the appeal of a denial of a request for records within 20 work days of its receipt.

(c) The General Counsel will decide the appeal in writing and mail the decision to the requester.

(d) If the appeal concerns an expedited processing request and the decision is in favor of the person making the request, the General Counsel will order that the request be processed on an expedited basis. If the decision concerning a request for records is in favor of the requester, the General Counsel will order that the subject records be promptly made available to the person making the request.

(e) If the appeal of a request for expedited processing of records is denied, in whole or in part, the General Counsel's decision will set forth the basis for the decision. If the appeal of a request for records is denied, in whole or in part, the General Counsel's decision will set forth the exemption relied on and a brief explanation of how the exemption applies to the records withheld and the reasons for asserting it, if different from the reasons described by the FOIA Officer under § 1631.9. The denial of a request for records will state that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in Federal court. (A Federal court does not have jurisdiction to review a denial of a request for expedited processing after the Board has provided a complete response to the request.)

(f) No personal appearance, oral argument, or hearing will ordinarily be permitted in connection with an appeal of a request for expedited processing or an appeal for records.

(g) On appeal of a request concerning records, the General Counsel may reduce any fees previously assessed.

§ 1631.11 [Amended]

6. In section 1631.11 amend paragraph (a)(4) by removing the phrase ''plus 16 percent'' in the second sentence and adding the phrase ''plus 23.5 percent'' in its place.

§ 1631.13 [Amended]

7. In section 1631.13 amend paragraph (c) by removing the number ''10'' and adding in its place the number ''20''.

§ 1631.14 [Amended]

8. In section 1631.14 amend the first sentence of paragraph (a) and the second sentence of paragraph (b) by removing the phrase ''plus 16 percent'' and adding the phrase ''plus 23.5 percent'' in its place.

9. Section 1631.18 is revised to read as follows:

§ 1631.18 Annual report.

The Executive Director will submit annually, on or before February 1, a Freedom of Information report covering the preceding fiscal year to the Attorney General of the United States. The report will include matters required by 5 U.S.C. 552(e).

[FR Doc. 98–20876 Filed 8–4–98; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV98–981–1 FR]

Almonds Grown in California; Revision of Requirements Regarding Quality Control Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the administrative rules and regulations of the California almond marketing order (order) pertaining to the quality control program. The order regulates the handling of almonds grown in California, and is administered locally by the Almond Board of California (Board). Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible to accepted users of such product. Accepted users are approved annually by the Board. This rule clarifies conditions upon which accepted users' status may be denied or revoked by the Board. This rule will help to ensure that inedible almonds are removed from human consumption channels, thereby maintaining the integrity of the quality control provisions of the order.

EFFECTIVE DATE: This final rule becomes effective August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This final rule revises the administrative rules and regulations pertaining to a quality control program under the California almond order. This rule was unanimously recommended by the Board, and clarifies conditions under which the Board may deny or revoke the status of accepted users of inedible almonds.

Section 981.42 of the order provides authority for a quality control program. Section 981.42(a) requires handlers to obtain incoming inspection on almonds received from growers to determine the percent of inedible kernels in each lot of any variety. Handlers are required to report such inedible determination for each lot received to the Board. Section 981.42(a) also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the order's quality control provisions.

Section 981.442 of the order's administrative rules and regulations specifies that the weight of inedible kernels in each lot of any variety of almonds in excess of 1 percent of the kernel weight received by a handler shall constitute such handler's inedible disposition obligation. Handlers are required to deliver inedible kernels accumulated in the course of processing to Board-approved accepted users of such product in order to satisfy the disposition obligation. Accepted users then dispose of inedible kernels to non-human consumption outlets. Because inedible kernels are considered unfit for human consumption, requiring handlers to meet this obligation helps to ensure that each handler's outgoing shipments of almonds are relatively free of almonds with serious damage, and the number of kernels with minor damage should be minimal.

Accepted users of inedible almonds file an application with the Board specifying certain terms and conditions with which they will voluntarily abide. The application also indicates they will dispose of the inedible almonds received from handlers in one or more of the following manners: crushing into oil; manufacturing into animal feed; or feeding directly to animals. The Board staff reviews and approves accepted user applications on an annual basis.

Section 981.442(a)(7) of the rules and regulations lists eligibility criteria for accepted users. These criteria are applied by the Board when reviewing and approving accepted users. However, the regulations do not specifically address when the Board may deny or revoke accepted user status. Situations

have occurred in the past wherein accepted users have failed to completely meet these conditions, and the Board could not be assured the inedible almonds were being disposed of in non-human consumption outlets.

The Board met on March 25, 1998, and unanimously recommended adding language to § 981.442(a)(7) of the administrative rules and regulations stating that an accepted user's status may be denied or revoked if the eligibility requirements are not met or if the terms and conditions agreed to in the accepted user application are not met. The Board recommended that this change be made effective by the beginning of the crop year (August 1, 1998), or as soon as possible thereafter, so that this action coincides with the approval cycle for accepted user applications.

This change provides a clear foundation of understanding between the Board, handlers, and accepted users. This action will assist in maintaining the integrity of the Board's quality control program by providing clear authority to deny or revoke accepted user status. This will help to ensure inedible almonds are properly disposed of in non-human consumption outlets, which is in the interest of producers, handlers, and consumers.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 97 handlers of California almonds who are subject to regulation under the order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Currently, about 58 percent of the handlers ship under $5,000,000 worth of almonds and 42 percent ship over $5,000,000 worth on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately $156,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

There are currently 23 accepted users of inedible almonds approved by the Board. Accepted users may enter into a voluntary agreement with the Board to function as an outlet to which handlers can ship inedible almonds to satisfy an order obligation. While data concerning these entities is limited, based on a review of the quantity of inedible almonds delivered to each entity, it is believed that the majority may be classified as small entities.

This rule revises the quality control provisions of the administrative rules and regulations issued under the California almond order. Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible to accepted users of such product. Accepted users are approved annually by the Board.

Section 981.442(a)(7) of the order's administrative rules and regulations provides criteria which accepted users must meet. This rule revises this section to specify that an accepted user's status may be denied or revoked if the criteria are not met. This rule will help maintain the integrity of the Board's quality control program.

This change is not expected to impact handlers, other than to clarify to them that an accepted user's status may be denied or revoked. Handlers are provided a listing of approved accepted users so they know who they can deliver inedible material to and receive credit against their obligation. In the event an application for accepted user status is denied or an accepted user's status is revoked, handlers will be notified by Board staff and provided an updated listing.

This rule only impacts applicants for accepted user status, or accepted users in the sense that it clarifies that accepted user status may be denied or revoked if the terms and conditions set forth in the rules and regulations and the accepted user application are not met. Accepted users are approved entities to which handlers may deliver inedible almonds and receive credit against their inedible disposition obligation. Accepted users voluntarily agree to meet certain terms and conditions so the Board may be assured that inedible almonds do not enter human consumption channels. If these dealers in inedible almonds do not agree to the terms and conditions, they are not approved by the Board. However, they may still operate in the business, although handlers do not receive credit against their inedible disposition obligation if they deliver product to such non-approved entities. Situations have occurred in the past wherein accepted users have failed to completely meet these conditions, and the Board could not be assured the inedible almonds were being disposed of in non-human consumption outlets.

One alternative to this rule would be to maintain the regulatory language as it currently exists, in which case there would be no clarification. Another alternative would be to specify at length all possible reasons for denying or revoking an accepted user's status. The first alternative fails to address the issue, and the second would require unnecessary lengthy additions to regulatory language, and may be incomplete.

This rule imposes no additional reporting or recordkeeping requirements on either small or large almond handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0071. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the March 25, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Board itself is composed of 10 members, of which 5 are producers and 5 are handlers.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Quality Control Committee met on February 25, 1998,

and discussed this issue. That meeting was also a public meeting and both large and small entities were able to participate and express their views.

A proposed rule concerning this action was published in the **Federal Register** on June 17, 1998 (63 FR 33010). Copies of the rule were mailed to all Board members and almond handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period ending July 17, 1998, was provided to allow interested persons to respond to the proposal.

One comment was received in response to the proposed rule. The commenter, a marketing cooperative representing California almond growers, supported the proposal. The commenter believes that denying or revoking accepted user status is the principal method that the Board has to ensure that only users that dispose of inedible almonds in proper channels are approved by the Board.

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the beginning of the 1998–99 crop year is August 1, 1998, and the rule needs to be in effect as soon as possible so this action coincides with the approval cycle for accepted user applications. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule, and one comment was received which supported the change.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.442 is amended by adding a new paragraph (a)(7)(iv) to read as follows:

§ 981.442 Quality Control.

(a) * * *

(7) * * *

(iv) The Board may deny or revoke accepted user status at any time if the applicant or accepted user fails to meet the terms and conditions of § 981.442, or if the applicant or accepted user fails to meet the terms and conditions set forth in the accepted user application (ABC Form 34).

* * * * *

Dated: July 30, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–20913 Filed 8–4–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1446

RIN: 0560–AF56

Cleaning and Reinspection of Farmers Stock Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends regulations for the peanut price support program to, pending comment, ease conditions for marketing Segregation 3 peanuts by allowing the peanuts to be reconditioned and regraded in certain limited instances. Peanuts are graded as ''Segregation 3'' peanuts when they are found by visual inspection to have Aspergillus flavus (A. flavus) mold. This rule would allow a farmer whose peanuts were found at a buying point inspection to have the mold to reclean those peanuts at the buying point and have them visually reinspected within 24 hours. The farmer could obtain such a re-inspection only once for any given lot. This rule follows litigation in which all segments of the industry were involved and buying point inspection procedures were at issue. This rule is issued as an interim rule to allow relief with respect to the upcoming crop (the 1998 crop) which should come to market shortly. However, comments on all inspection options related to the price support program for peanuts are solicited and should be offered by all interested parties.

DATES: Effective August 5, 1998. Comments must be received on or before September 4, 1998 to be assured consideration. Comments regarding information collection must be received on or before October 5, 1998 to be assured consideration.

ADDRESSES: Submit comments on the interim rule to: Director, Tobacco and Peanuts Division, Farm Service Agency, U.S. Department of Agriculture, STOP 0514, 1400 Independence Avenue, SW, Washington, D.C., 20250–0514. All written submissions made pursuant to this rule will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., during regular Federal workdays.

FOR FURTHER INFORMATION CONTACT: David Kincannon, (202) 720–7914.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this interim rule because the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Unfunded Federal Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are: Commodity Loans and Purchases—10.051.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires 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 interim rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws to the extent that such laws are consistent with the provisions of this rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 1446, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

National Appeals Division Rules of Procedure

The procedures set out in 7 CFR parts 11 and 780 apply to appeals of adverse decisions made under the regulations adopted in this notice.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, CCC will forward a regular submission of this information collection request to OMB for the approval of increased reporting burden necessary for the administration of the peanut program.

Title: Peanut Program.

OMB Control Number: 0560–0006.

Type of Request: Reinstatement and Revision of a previously approved information collection.

Abstract: The peanut price support program is made available through the authority granted the Secretary of Agriculture under the Agricultural Adjustment Act of 1938, as amended, and the Agriculture Act of 1949, as amended. The Federal Agriculture Improvement and Reform Act of 1996 amended the peanut price support program effective for the 1996 through 2002 crop years.

Under the provisions of the peanut price support program FSA allocates peanut quota to States based on the peanut quota allocated to the State in 1995. Each farm eligible for peanut quota allocation receives a quota based on the increase or decrease in the States quota. Provisions of the peanut program requires FSA to administer the transfer of peanut quota between farm, the allocation of temporary seed quota, the marketing, inspection and grading peanuts of all peanuts, making warehouse-and farm-stored loans, and the contracting and disposition of additional peanuts (peanuts grown in excess of a farms quota allocation).

The public reporting burden imposed by the peanut price support program requires peanut producers to document the acreage planted to peanuts, peanut quota transferred to another farm and to an out-of-county farm, production and disposition of peanuts. Peanut handlers are required to report the grade factors for peanuts inspected at time of delivery to buying points, purchase of non-inspected peanuts, peanuts used for breeder seed or foundation seed, and peanuts used for experimental purposes.

This information collected allows FSA, in accordance with statutory provisions, to account for peanut production for each farm, allocate temporary seed quota to eligible producers, and monitor the disposition of additional peanuts to assure only quota peanuts are used in the domestic market. In addition, this information collection allows the CCC to administer the warehouse-and farm-stored peanut loan program and to assure that quota peanuts are supported at the mandated price support rate.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .68 hours per response .

Respondents: Peanut Producers.

Estimated Number of Respondents: 51,250.

Estimated Number of Responses per Respondent: 15.

Estimated Total Annual Burden on Respondents: 306,690 hours.

Proposed topics for comment include: (a) Whether the continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the CCC's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information collected; or (d) minimizing the burden of the collection of the 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. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20250–0517. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection of information contained in these interim regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Background

This rule addresses an amendment to the peanut poundage quota regulations at 7 CFR Part 1446 with regard to determining Segregation 3 peanuts and addresses a matter which has been at issue in recent litigation under the name of *Ray T. Boyd et al.* v. *Glickman*, USDC M.D. Ala., Southern Div., Civil Action No. 98–A–83 S. In order to provide some relief with respect to the matter at issue in that proceeding, this rule modifies the definition of Segregation 3 peanuts found in § 1446.103 by providing that peanuts found to have visible Aspergillus flavus (A. flavus) mold upon a visual inspection at a buying point may be reconditioned and regraded in certain limited instances. For many years peanuts found to have visible A. flavus mold were required to be marketed as additional loan peanuts or as quota peanuts returned to the farm for seed. Although no recleaning was allowed, the impact of the inspection on farmers was mitigated by the availability of ''disaster transfers'' which allowed a transfer of additional loan peanuts to a quota loan pool. Those transfers did not change the ultimate use of the peanuts but did allow the farmer to receive a return close to that for quota peanuts if the farmer otherwise would have unused quota.

The Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) substantially limited the quantity and price on such transfers but did not mandate the particular procedures by which peanuts would be classified as Segregation 3 peanuts. In order to mitigate possible harm to individual farmers with Segregation 3 peanuts, farmers whose peanuts are found to contain visible A. flavus mold would be allowed by this interim rule, pending comment, to have the peanuts reconditioned by removing foreign material and loose shelled kernels (LSK's) at the buying point and regraded one time only in accordance with directions to be issued by the Director of the Tobacco and Peanuts Division of the Farm Service Agency.

As defined by 7 CFR part 1446, farmers stock peanuts are picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels (LSK's), and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any LSK's that are removed from farmers stock peanuts before such farmers stock peanuts are marketed. Accordingly, the only permissible reconditioning of farmers stock peanuts

is cleaning to remove foreign material and LSK's. Any LSK's removed by cleaning must be accounted for as will be specified by the Director.

Comments on this interim rule are requested and will be considered including comments directed at the impact of this rule on other farmers because of possible losses that could occur on peanuts that are regraded but after being pledged as collateral for a price support loan at the higher quota level are not found attractive to buyers of peanuts for quota peanut uses. It has been determined for the present that the retesting will not be made using chemical testing because of the cost involved, and the lack of standards for chemical testing at that stage of the marketing process. Insofar as questions of wholesomeness are concerned chemical testing is conducted at a later stage of the marketing process for the purposes of insuring such wholesomeness. The inspection addressed in this rule is for purposes of making certain price support value determinations in the context of operating a program that supports peanuts throughout the country.

However, comments concerning chemical testing during the inspection for incoming producer peanuts at buying points will be carefully considered in determining whether to amend the interim rule prior to making that rule final. Such comments should address the efficacy of such testing, standards for such testing and the assignment of costs for such testing. That is, all interested parties should provide comments expressing their view on whether the option contained in the interim rule, or some other option, should be selected. All options will be considered.

List of Subjects in 7 CFR part 1446

Loan programs—agriculture, Reporting and recordkeeping requirements

For the reasons set out in the preamble, 7 CFR part 1446 is amended as follows:

PART 1446—PEANUTS

1. The authority citation is amended to read as follows:

Authority: 7 U.S.C. 7271; 15 U.S.C. 714b and 714c

2. In § 1446.103 a new definition of ''Director'' is added in its proper alphabetical sequence and in the definition of Segregations, paragraph (3) is revised to read as follows:

§ 1446.103 Definitions

* * * * *

Director. The Director, or Acting Director, Tobacco and Peanuts Division, Farm Service Agency, U.S. Department of Agriculture.

* * * * *

Segregations. * * *

(3) *Segregation 3*. Segregation 3 peanuts are farmers stock peanuts which, upon visible inspection, are found to contain Aspergillus flavus mold: *Provided, further,* however, that, in accordance with such written instructions as the Director may issue, the Director shall permit producers at approved buying points as specified by the Director to have a Segregation 3 lot reconditioned, one time only, so long as the reconditioning is performed at the buying point where the peanuts were initially delivered, and then reinspected visually. Such reinspection may not occur more than 24 hours from the initial inspection except as permitted by the Director and the second grade shall be considered the final grade for the farmers stock peanuts.

* * * * *

Signed at Washington, D.C., on July 30, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98–20896 Filed 7–31–98; 2:59pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1951

RIN 0572–AB23

Servicing of Community and Insured Business Programs Loans and Grants

AGENCIES: Rural Housing Service; Rural-Business Cooperative Service; Rural Utilities Service; and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) hereby amends the regulations utilized to service loans and grants. The final rule will permit loan reamortization with interest rate adjustment for eligible delinquent borrowers. The final rule will provide debt relief to troubled borrowers and encourage these organizations to remain in operation and resume scheduled loan payments. The final rule will also provide RUS greater flexibility to service problem loans and permit a viable, cost effective alternative to debt write-offs.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: John Purcell, Rural Utilities Service, Stop 1570, 1400 Independence Ave. SW, Washington, DC 20250, telephone (202) 720–9634.

SUPPLEMENTARY INFORMATION:

Classification

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

Regulatory Flexibility Act

Pursuant to § 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the head of the Agencies certify that this rule will not have a significant economic impact on a substantial number of small entities.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.760, Water and Waste Disposal Systems for Rural Communities, subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It has been determined that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This regulation has been reviewed under Executive Order 12988, Civil Justice Reform. When this regulation is adopted: (1) unless otherwise specifically provided all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), the information collection requirements included in this rule have been

approved through 7 CFR part 1951, subpart E. The assigned OMB number is 0575–0066. This rule does not revise or impose any new information collection or recordkeeping requirements from those approved by the Office of Management and Budget.

National Performance Review

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

Unfunded Mandate Reform Act

Title II of the Unfunded Mandate 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, the Agency 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. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

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. Thus today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion

The Rural Utilities Service was formed in connection with the reorganization of programs administered by the former Farmers Home Administration and the former Rural Development Administration. As currently written, 7 CFR part 1951, subpart E does not permit loan reamortization with interest rate adjustment on outstanding loans. Accordingly, RUS is unable to provide an interest rate adjustment to borrowers that become seriously delinquent on their loan payments. This final rule will provide debt relief to troubled borrowers and encourage these organizations to remain in operation and resume scheduled loan payments. The final rule will also provide RUS greater flexibility to service problem loans and permit a viable, cost effective alternative to debt write-offs.

Comments on the Proposed Rule

RUS published the proposed rule in the **Federal Register** on June 2, 1997, (62 FR 29678) and asked for written comments on or before August 1, 1997. The Agency received two comments from the public review process. All comments were considered when preparing the final rule. No changes have been made to the proposed rule as a result of the comments received. Responses to comments are listed according to corresponding sections of the rule and are as follows:

1. § 1951.223(d)—Define what a ''seriously delinquent'' borrower represents.

Agency Response: The Agency made no change. The Agency believes the causes and circumstances attributed to borrower delinquencies will vary significantly and the number of borrowers to qualify under this rule will be limited. The Agency believes it would be prohibitive to include specific criteria for defining ''seriously delinquent''.

2. § 1951.223(d)(1)(ii)—Define what ''experiencing severe financial problems'' represents.

Agency Response: The Agency made no change. The Agency believes the financial conditions and the degree of financial impact varies significantly between borrowers. Therefore, it would be prohibitive to include specific criteria.

3. § 1951.223 (d)(2)(i)—Define what a ''reasonable amount of cash or cash reserves represents.

Agency Response: The Agency made no change. The Agency believes the financial resources necessary to adequately operate a water and wastewater facility vary significantly. Therefore, it would be prohibitive to include specific criteria.

4. § 1951.223 (d)(2)(ii)—The Agency should determine if the original interest rate can be restored if financial conditions improve; and the interest rate reduction should be for a limited period of time.

Agency Response: The Agency made no change. The Agency has a loan provision that requires borrowers to refinance their RUS debt with commercial or private credit if financial conditions permit. Each borrower's financial condition is reviewed on a regular basis and those financially able to refinance their RUS debt are requested to do so.

5. § 1951.223(d)(3)—Does an eligible borrower have to comply with the health or sanitary standards and median household income conditions for poverty rate loans?

Agency Response: The Agency made no change. Borrowers that qualify for an interest rate adjustment under this rule will not have to comply with the stated criteria for poverty interest rates.

6. § 1951.223(d)(3)—Include provision to review borrowers financial condition and restore original interest rate if a borrower's financial conditions permit.

Agency Response: The Agency made no change. The Agency has a loan provision that requires borrowers to refinance their RUS debt with commercial or private credit if financial conditions permit. Each borrower's financial condition is reviewed on a regular basis and those financially able to refinance their RUS debt are requested to do so.

List of Subjects in 7 CFR Part 1951

Accounting, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas.

Accordingly, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1981; 42 U.S.C. 1480.

Subpart E—Servicing of Community and Direct Business Programs Loans and Grants

2. Section 1951.223(d) is added to read as follows:

§ 1951.223 Reamortization.

* * * * *

(d) *Reamortization with interest rate adjustment—Water and waste borrowers only.* A borrower that is seriously delinquent in loan payments may be eligible for loan reamortization with interest rate adjustment. The purpose of loan reamortization with interest rate adjustment is to provide relief for a borrower that is unable to service the outstanding loan in accordance with its existing terms and to enhance recovery on the loan. A borrower must meet the conditions of this subpart to be considered eligible for this provision.

(1) *Eligibility determination.* The State Director, Rural Development, may submit to the Administrator for approval an adjustment in the rate of interest charged on outstanding loans only for those borrowers who meet the following requirements:

(i) The borrower has exhausted all other servicing provisions contained in this subpart;

(ii) The borrower is experiencing severe financial problems;

(iii) Any management deficiencies must have been corrected or the borrower must submit a plan acceptable to the State Office to correct any deficiencies before an interest rate adjustment may be considered;

(iv) Borrower user rates must be comparable to similar systems. In addition, the operating expenses reported by the borrower must appear reasonable in relation to similar system expenses;

(v) The borrower has cooperated with Rural Development in exploring alternative servicing options and has acted in good faith with regard to eliminating the delinquency and complying with its loan agreements and agency regulations; and

(vi) The borrower's account must be delinquent at least one annual debt payment for 180 days.

(2) *Conditions of approval.* All borrowers approved for an adjustment in the rate of interest by the Administrator shall agree to the following conditions:

(i) The borrower shall agree not to maintain cash or cash reserves beyond what is reasonable at the time of interest rate adjustment to meet debt service, operating, and reserve requirements.

(ii) A review of the borrower's management and business operations may be required at the discretion of the State Director. This review shall be performed by an independent expert who has been recommended by the State Director and approved by the National Office. The borrower must agree to implement all recommendations made by the State Director as a result of the review.

(iii) If requested, a copy of the latest audited financial statements or management report must be submitted to the Administrator.

(3) *Reamortization.* At the discretion of the Administrator, the interest rate charged on outstanding loans of eligible borrowers may be adjusted to no less than the poverty interest rate and the term of the loans may be extended up to a new 40 year term or the remaining useful life of the facility, whichever is less.

Dated: June 18, 1998.

Jill Long Thompson,

Under Secretary Rural Development.

[FR Doc. 98–20914 Filed 8–4–98; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1955

Property Management

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Agencies are revising their Property Management regulations to clarify changes in definitions that only affect Real Estate Owned (REO) by the Agency, and not a customer's account. This action is being taken to update and correct the definitions of the terms ''nonrecoverable'' and ''recoverable.'' The intended effect is to improve the Agencies' recordkeeping systems.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Carl Muhlbauer, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, Stop 0761, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0761; telephone (202) 690–2141.

SUPPLEMENTARY INFORMATION:

Classification and Summary of Changes

This action is not subject to the provisions of Executive Order 12866 since it only involves a change in the way the Agencies perform their accounting. In pre-Credit Reform practice, taxes were paid out of the revolving funds, making it impossible to identify and credit later tax payment reimbursements to the properties affected. This change will allow the Agencies to more precisely charge and credit tax payments related to Real Estate Owned (REO) property by associating them with the specific properties on which taxes are invoiced. Property management regulation definitions of ''nonrecoverable'' and ''recoverable'' and policy and procedure for related Agency expenditures are being revised to conform to certain definitions and cost accounting developed under the Credit Reform Act as implemented through the Office of Management and Budget Circular A–34. Definitions developed under OMB guidance, intended to distinguish between administrative expenses directly related to program operations (nonrecoverable), and expenses directly related to and chargeable to a borrower or REO account (recoverable), including the costs of foreclosing, managing, and selling collateral, have been in use under unpublished internal Agency policy (RD Instruction 2024-A). Property Management regulations were never revised to reflect the change in definitions. These revisions do not affect the legal or actual recoverability of a charge from a borrower. The replacement of the term ''nonrecoverable costs'' with ''recoverable costs'' in §§ 1955.67, 1955.68, and 1955.69 affects only REO property, not a borrower account. Since the public is not affected by this rulemaking change, publication for notice and comment is not necessary.

Programs Affected

These programs or activities are listed in the Catalog of Federal Domestic Assistance and are subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials under the following numbers:

10.405—Farm Labor Housing Loans and Grants
10.407—Farm Ownership Loans
10.411—Rural Housing Site Loans
10.415—Rural Rental Housing Loans
10.416—Soil and Water Loans
10.421—Indian Tribes and Tribal Corporation Loans
10.760—Water and Waste Disposal Systems for Rural Communities
10.764—Resource Conservation and Development Loans
10.765—Watershed Protection and Flood Prevention Loans
10.766—Community Facilities Loans
10.767—Intermediary Relending Program
10.768—Business and Industrial Loans
10.770—Water and Waste Disposal Loans and Grants

The following programs or activities are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials, under the following numbers:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.443—Outreach and Assistance Grants for Socially Disadvantaged Farmers and Ranchers
10.850—Rural Electrification Loans and Loan Guarantees

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the

Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575–0109 and 0575–0110 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This rule does not revise or impose any new information collection or recordkeeping requirements.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agencies 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, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

The undersigned certify that this rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act. Pub. L. 96-534, as amended (5 U.S.C. 601). No actions are being taken under this rule that affect small entities. These changes only affect Agency recordkeeping. Therefore, a Regulatory Flexibility Analysis has not been prepared.

Environmental Impact Statement

It is the determination of the issuing Agencies that this action is not a major Federal action significantly affecting the environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11, and 1900, subpart B or 780, as applicable, must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

List of Subjects in 7 CFR Part 1955

Foreclosure, Government acquired property, Government property management Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1955—PROPERTY MANAGEMENT

1. The authority citation for part 1955 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

2. Section 1955.3 is amended by revising the definitions of ''Nonrecoverable costs'' and ''Recoverable costs'' to read as follows:

§ 1955.3 Definitions.

* * * * *

Nonrecoverable cost is a contractual or noncontractual program loan cost expense not chargeable to a borrower, property account, or part of the loan subsidy.

* * * * *

Recoverable cost is a contractual or noncontractual program loan cost expense chargeable to a borrower, property account, or part of the loan subsidy.

* * * * *

Subpart B—Management of Property

3. Section 1955.53 is amended by revising the definitions of ''Nonrecoverable costs'' and ''Recoverable costs'' to read as follows:

§ 1955.53 Definitions.

* * * * *

Nonrecoverable cost is a contractual or noncontractual program loan cost expense not chargeable to a borrower, property account, or part of the loan subsidy.

* * * * *

Recoverable cost is a contractual or noncontractual program loan expense chargeable to a borrower, property account, or part of the loan subsidy.

* * * * *

§§ 1955.67—1955.71 [Removed and Reserved]

4. Sections 1955. 67 through 1955.71 are removed and reserved.

Dated: May 19, 1998.

Jan E. Shadburn,

Administrator, Rural Housing Service.

Dated: May 21, 1998.

William P. Hagy,

Acting Administrator, Rural Business-Cooperative Service.

Dated: May 28, 1998.

Wally B. Beyer,

Administrator, Rural Utilities Service.

Dated: June 1, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–20393 Filed 8–4–98; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–54–AD; Amendment 39–10584; AD 98–12–31]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of Airworthiness Directive (AD) 98–12–31, which applies to certain British Aerospace Jetstream Model 3101 airplanes. AD 98–12–31 requires repositioning the fuel cross feed pipes in the lower center fuselage to give an overall clearance of 2 inches when measuring from the bottom of Frame Station 223. This AD was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified in this AD are intended to prevent the fuel pipe from fracturing during a wheels up landing because of the positioning of the fuel cross feed pipes, which could result in an airplane fire.

EFFECTIVE DATE: September 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate,

Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with request for comments in the **Federal Register** on June 12, 1998 (63 FR 32121). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on September 10, 1998. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–20839 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–7]

Revision of Class E Airspace; Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule modifies Class E airspace at Barrow, AK. The establishment of Global Positioning System (GPS) instrument approaches to runway (RWY) 6 and RWY 24 at Wiley Post-Will Rogers Memorial Airport, Barrow, AK, made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Barrow, AK.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On April 20, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace at Barrow, AK, was published in the **Federal Register** (63 FR 19429). The proposal was necessary due to establishment of GPS instrument approaches to RWY 6 and RWY 24 at Barrow, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received. However, the Point Barrow LRRS Airport was shut down and abandoned in December 1991. The airspace within 6.5-mile radius of the Point Barrow LRRS Airport therefore is no longer required. Elimination of this airspace will reduce the burden to the public. References to the Point Barrow LRRS Airport 6.5-mile radius have been removed from the Barrow, AK, legal description. The Barrow, AK, legal description was changed to reflect this removal by: (1) the intersection of the Barrow 345° radial and the 6.5-mile radius of the Point Barrow LRRS Airport has been replaced with the latitude/longitude coordinates: 71° 25′ N, 156° 55′W and (2) the 1,200 foot airspace boundary line will connect to the northeast corner of the existing 700 foot airspace boundary at 71° 21′ 02″ N, 156° 00′ 41″ W. The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. The area will be depicted on aeronautical charts for pilot reference. The Class E airspace designated 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491; October 8, 1997). The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Barrow, AK. The establishment of the GPS instrument approaches to RWY 6 and RWY 24 have made this action necessary. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Barrow, AK.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Barrow, AK

Barrow/Wiley Post-Will Rogers Memorial Airport, AK
(Lat. 71° 17′ 08″ N, long. 156° 45′ 58″ W)
Barrow VORTAC
(Lat. 71° 16′ 24″ N, long. 156° 47′ 18″ W)
Barrow Localizer

(Lat. 71° 17′ 08″ N, long. 156° 44′ 07″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Barrow/Wiley Post-Will Rogers Memorial Airport and within 4 miles each side of the Barrow Localizer back course extending from the 6.6-mile radius to 14.6 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within a 77-mile radius of the airport extending clockwise from the Barrow VORTAC 101° radial to the 240° radial and within the area bounded by a line beginning at the Barrow VORTAC 240° radial 20 miles west to 71° 13′ N 158° W to 71° 23′ N 157° 48′ W to 71° 25′ N 156° 55′ W to 71° 21′ 02″ N 156° 00′ 41″ W.

* * * * *

Issued in Anchorage, AK, on July 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–20937 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 280

[Docket Number: 980623159–8159–01]

RIN 0693–AB47

Implementation of the Fastener Quality Act

AGENCY: National Institute of Standards and Technology, United States Department of Commerce.

ACTION: Final rule; correction.

SUMMARY: In the June 30, 1998, **Federal Register** notice announcing the final rule and extension of implementation date for the Fastener Quality Act, important information was inadvertently omitted from one of the amendments, which has created ambiguity in the final rule. Accordingly, the Director of the National Institute of Standards and Technology (NIST) is publishing this notice to correct that amendment.

DATES: Effective June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Subhas G. Malghan, FQA Program Manager, Technology Services, National Institute of Standards and Technology, Building 820, Room 306, Gaithersburg, MD 20899, telephone number (301) 975–5120.

SUPPLEMENTARY INFORMATION: In the **Federal Register** notice published on June 30, 1998, the letter (A) was inadvertently omitted from instruction number 4. Due to this omission, it was ambiguous whether subsections (B), (C), (D), and (E) were deleted from § 280.810(c)(3)(i). Since the items listed in these subsections still are required, NIST is publishing this correction to the final rule to eliminate the ambiquity.

In the final rule published in the **Federal Register** on June 30, 1998 (63 FR 35507), on page 35508 in the first column, amendatory instruction number 4 is corrected to read as follows:

4. Section 280.810(c)(3)(i)(A) is revised to read as follows:

Dated: July 29, 1998.

Robert E. Hebner,

Acting Deputy Director, National Institute of Standards and Technology.

[FR Doc. 98–20809 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 97N–0449]

Revisions to the General Safety Test Requirements for Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule: Confirmation in part and withdrawal in part.

SUMMARY: The Food and Drug Administration (FDA) is confirming in part and withdrawing in part the provisions in the direct final rule that published in the Federal Register of April 20, 1998, to revise the general safety test (GST) requirements for biological products. FDA is confirming the part of the rule about which no significant adverse comment was received and withdrawing the part about which significant adverse comment was received.

DATES: The effective date for the revision of § 610.11(g)(1) published at 63 FR 19403 (April 20, 1998) is confirmed as September 2, 1998. The revision of § 610.11(g)(2) published at 63 FR 19403 (April 20, 1998) is withdrawn as of *August 5, 1998.*

FOR FURTHER INFORMATION CONTACT: Dano B. Murphy, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA published a direct final rule on April 20, 1998 (63 FR 19399), that was intended to revise the GST requirements set forth in § 610.11 (21 CFR 610.11). In response to the direct final rule, the agency received significant adverse comment about § 610.11(g)(2), the provision of the rule that provides the administrative procedures for requesting an exemption from the GST requirements. The agency received no significant adverse comment about the addition of ''cellular therapy products'' to the list of products excepted from the GST in § 610.11(g)(1).

Under FDA's direct final rule procedures, the receipt of any significant adverse comment will result in the withdrawal of the direct final rule; however, FDA may adopt as final any part of a direct final rule that can be severed and is not subject to significant adverse comment. Thus, the part of this direct final rule that received significant adverse comment can be severed and is being withdrawn, effective immediately. Comments received by the agency regarding the withdrawn portion of the rule will be applied to the corresponding portion of the companion proposed rule (63 FR 19431) and will be considered in developing a final rule using the usual Administrative Procedure Act notice-and-comment procedures.

FDA is confirming § 610.11(g)(1) of the direct final rule and adding ''cellular therapy products'' to the list of products excepted from the GST, effective September 2, 1998.

For the reasons set forth in the preamble, the revision of § 610.11(g)(2), published at 63 FR 19403 (April 20, 1998), is withdrawn and paragraph (g)(2) is reserved.

Dated: July 29, 1998.

William K. Hubbard.

Associate Commissioner for Policy Coordination.

[FR Doc. 98–20823 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–033]

RIN 2115–AE46

Special Local Regulations; St. Johns River, Jacksonville, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is amending the permanent special local regulations for the Annual Greater Jacksonville Kingfish Tournament, by increasing the size of the No Wake Zone on the waters of the St. Johns River and establishing the annual date of the event during the

second full week of July. The increased size of the zone is needed to safeguard the increasingly larger number of participants and other vessels transiting the St. Johns River and Sisters Creek during the Annual Greater Jacksonville Kingfish Tournament. Vessel operators should use minimum speed in this area to avoid creating wakes, unless otherwise authorized by the Captain of the Port.

DATES: This rule becomes effective on August 5, 1998.

FOR FURTHER INFORMATION CONTACT:

Ensign Gary Watson, Group Mayport. Tel: (904) 247–7318.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 18, 1998, the Coast Guard published a Notice of Proposed Rulemaking concerning the changes to the permanent special local regulations for the Annual Greater Jacksonville Kingfish Tournament in the **Federal Register** (63 FR 33596). No comments were received during the comment period.

Background and Purpose

The event requiring this regulation is the Annual Greater Jacksonville Kingfish Tournament, which will be held annually during the second full week in July. Due to the large number of participants and spectator craft, a larger No Wake Zone has been proposed on the waters of the St. Johns River lying between the eastern boundary formed by St. Johns River Lighted Buoy 7 in approximate position 30–23.56N, 081–23.04W, and Lighted Buoy 8 in position 30–24.03N, 081–23.01 W, and the western boundary formed by Lighted Buoy 25 in position 30–23.40N, 081–28.26W, and Short Cut Light 26 in position 30–23.46N, 081–28.16W, with the northern and southern boundaries formed by the banks of the St. Johns River and extended north from the boundary formed by the St. Johns River and the Intracoastal Waterway, Sisters Creek, to Lighted Buoy 83 on the Intracoastal Waterway. The increased zone size is needed to safeguard vessels transiting in the St. Johns River and Sisters Creek during this event. This event will occur annually during the second full week of July, and the exact date and times will be broadcast in a Local Notice to Mariners. During each of these events, local law enforcement agents will be on scene to assist in enforcing the No Wake Zone and to monitor vessel traffic. This regulation is issued pursuant to 33 U.S.C. 1233 through 1236 as set out in the authority citation for all of Part 100.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040: February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Only a small amount of recreational and fishing vessel traffic is expected to be disrupted by the increased size of the No Wake Zone.

Small Entities

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

Therefore, the Coast Guard certifies under 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the No Wake Zone will only be in effect in a limited area for approximately 60 hours each year.

Collection of Information

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

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 rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action consistent with Figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C. In accordance with that section, this action has been environmentally assessed (EA completed) and the Coast Guard has concluded that it will not significantly affect the quality of the human environment. An Environmental Assessment and Finding of No Significant Impact have been prepared and are available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 100

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

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

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

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

2. Revise § 100.710 to read as follows:

§ 100.710 Annual Greater Jacksonville Kingfish Tournament; Jacksonville, Florida.

(a) *Regulated area.* A regulated area is established for the waters of the St. Johns River lying between an eastern boundary formed by St. Johns River Lighted Buoy 7 (LLNR (7145) in approximate position 30–23.56N, 081–23.04W, and Lighted Buoy 8 (LLNR 7150) in position 30–24.03N, 081–23.01W, and the western boundary formed by Lighted Buoy 25 (LLNR 7305) in position 30–23.40N, 081–28.26W, and Short Cut Light 26 (LLNR 7130 in position 30–23.46N, 081–28.16W with the northern and southern boundaries formed by the banks of the St. Johns and extended north from the boundary formed by the St. Johns River and the Intracoastal Waterway, Sisters Creek, to Lighted Buoy 83 (LLNR 38330) on the Intracoastal Waterway.

(b) *Regulations.* Vessels operating in the regulated area must operate at No Wake Speed.

(b) *Dates.* This section is effective annually during the second full week of July. Coast Guard Group Mayport will issue a Local Notice to Mariners each year announcing future specific times and dates of the event.

Norman T. Saunders,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 98–20932 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–15–5

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–98–045]

Drawbridge Operating Regulation; Dulac Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.5 governing the operation of the SR 57 swing span drawbridge across Dulac Bayou, mile 0.6, at Dulac, Terrebonne Parish, Louisiana. This deviation allows the Lousiana Department of Transportation and Development to close the bridge from 7 a.m. until noon and from 12:30 p.m. until 3:30 p.m., on August 3, 4, 5, 10, 11, 12, 17, 18 and 19, 1998. The span will open for the passage of traffic from noon until 12:30 p.m. on each of these days. The bridge will operate normally at all other times. In the event of an approaching tropical storm or hurricane, the draw will return to normal operation within 12 hours of notification by the Coast Guard. This temporary deviation is issued to allow for cleaning and painting the swing span, an extensive but necessary maintenance operation.

DATES: This deviation is effective from 7 a.m. on August 3 until 3:30 p.m. on August 19, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION: The SR 57 swing span drawbridge across Dulac Bayou, mile 0.6, in Dulac, Terrebonne Parish, Louisiana, has a vertical clearance of 7 feet above high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the bridge in order to accommodate the maintenance work. The maintenance work involves cleaning and painting of the swing span and is essential for the continued operation of the draw span.

This deviation allows the draw of the SR 57 swing span bridge across Dulac Bayou, mile 0.6, at Dulac to remain in the closed-to-navigation position between 7 a.m. and noon and from 12:30 p.m. until 3:30 p.m., on August 3, 4, 5, 10, 11, 12, 17, 18 and 19, 1998. The span will open for the passage of traffic from noon until 12:30 on each of these days. The bridge will operate normally at all other times.

This deviation will be effective from 7 a.m. on August 3 until 3:30 p.m. on August 19, 1998. Presently, the draw opens on signal at any time.

Dated July 28, 1998.

A.L. Gerfin, Jr.

Captain, U.S. Coast Guard Commander, 8th Coast Guard District.

[FR Doc. 98–20931 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300689; FRL–6018–5]

RIN 2070-AB78

Buprofezin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of buprofezin in or on cucurbits, tomatoes and tomato paste. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cucurbits and tomatoes. This regulation establishes a maximum permissible level for residues of buprofezin in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and are revoked on December 31, 1999.

DATES: This regulation is effective August 5, 1998. Objections and requests for hearings must be received by EPA on or before October 5, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300689], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300689], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300689]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for residues of the insecticide buprofezin, in or on cucurbits at 0.5 parts per million (ppm), tomatoes at 0.7 ppm, and tomato paste at 1.0 ppm. These tolerances will expire and are revoked on December 31, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C.

301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. *136 et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Buprofezin on Cucurbits and FFDCA Tolerances

Buprofezin was requested for use on cucurbits in Arizona to control whiteflies. The applicant states that the whitefly has been a major pest in Arizona since the late 1980's and has caused significant economic loss in a host of crops throughout the region. In Arizona, without efficacious control of whitefly, losses top $30 million annually to the watermelon and cantaloupe industries.

The host range for whitefly is broad and includes such commercial crops as cotton, melons and other cucurbit crops, cole crops, tomatoes, leafy vegetables, alfalfa and citrus. Urban ornamental plantings (such as lantana, hibiscus, brittlebush, rose, mints, etc.) and native vegetation (cheeseweed, mallows, etc.) are also host crops for the whitefly. The year round availability of hosts provides the foundation for an endemic population of whitefly, given the right environmental conditions and a lack of effective registered pesticides to suppress or control populations. What makes Arizona an excellent area for the commercial production of a variety of agricultural crops also makes it ideal for the annual survival of the whitefly.

Feeding whiteflies extract critical crop nutrients causing defoliation, stunting and yield losses. In addition, quality losses are common in commercial crops as the feeding whitefly excretes a ''sticky honeydew'' that promotes the development of black sooty mold. Both the mold development and the ''stickiness'' result in quality (economic) losses in addition to the economic loss inherent in reduced yields. Whiteflies are also vectors of disease, cause physiological disorders, and exacerbate a host of other production problems including increased plant stress leading to increased water and nutrient needs. The constant use of broad-spectrum insecticides for the control of this pest can lead to further damage by secondary pests such as aphids and mites. Finally, the continued and repeated use of the same or similar classes of insecticides has lead rapidly to the development of resistance in whiteflies.

Buprofezin was also requested for use on tomatoes in Florida to control the silverleaf whitefly. Tomatoes are produced and harvested year-round in Florida. Tomato seedlings are grown in planthouses and transplanted to fields. Silverleaf whitefly is a key pest on tomatoes from the seedling stage through harvest in Florida year-round in all production regions. High populations feeding on plants cause irregular ripening, reducing fruit value. Whiteflies may also transmit tomato mottle geminivirus (TMV) and tomato yellow leaf curl virus (TYLCV) during feeding. TYLCV was discovered in tomatoes in Florida in the summer of 1997 and is, therefore, a new pest-related problem. Because whitefly is such a good vector of the virus and the virus is so prevalent, only minimal infestations of whitefly are required to transmit TYLCV to tomato plants.

Alternative control practices include cultural control methods, natural enemies, and resistant varieties. Removal of alternate and overwintering host plants, use of trap crops, use of reflective mulches, and planting of windbreaks have not resulted in adequate whitefly control. Natural enemies suppress whitefly but, alone, do not provide adequate control. Buprofezin and pyriproxifen, because they are IGRs that only affect immature insect development or development of eggs, are less detrimental to natural enemies than are broad-spectrum insecticides. Resistant tomato varieties adapted to the Florida climate have not been developed.

No effective registered insecticides are available in Florida to manage Silverleaf Whitefly. In order to prevent spread of TYLCV, whitefly populations must be kept at a minimal level from transplanted seedling stage through harvest (up to 110 days). Systemic imidacloprid was very effective for controlling irregular ripening and TMV caused by whitefly before TYLCV became a problem in Florida. Because imidacloprid is only applied once and does not protect plants for the first two weeks after transplanting or for the last several weeks before harvest, it does not provide whitefly control required to prevent TYLCV infection of plants. Up to two applications each of both buprofezin and pyriproxifen will be required for protection of plants for the entire growing season. Field testing in Florida has demonstrated that whitefly has developed an unacceptable level of resistance to recommended foliar pyrethroids, methamidophos, and other registered products. EPA has authorized under FIFRA section 18 the use of buprofezin on cucurbits for control of whiteflies in Arizona and tomatoes for control of the silverleaf whitefly in Florida. After having reviewed the submissions, EPA concurs that emergency conditions exist for these states.

As part of its assessment of this emergency exemption, EPA assessed the

potential risks presented by residues of buprofezin in or on cucurbits and tomatoes. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on cucurbits, tomatoes, and tomato paste after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether buprofezin meets EPA's registration requirements for use on cucurbits or tomatoes or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of buprofezin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Arizona and Florida to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for buprofezin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the

assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased).

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (children 1-6 years old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of buprofezin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of buprofezin on cucurbits at 0.5 ppm, tomatoes at 0.7 ppm, and tomato paste at 1.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by buprofezin are discussed below.

1. *Acute toxicity*. Acute RfD = 0.67 mg/kg/day; NOEL = 200 mg/kg/day. For acute dietary risk assessment, the Agency determined that the rat developmental NOEL of 200 milligrams/kilogram/day (mg/kg/day), based on decreased fetal body weight and delayed ossification, at the LOEL of 800 mg/kg/day, from the rat developmental study should be used for the acute dietary risk assessment. This risk assessment will evaluate developmental risks to females 13+ years of age. An MOE of 300 is required (a factor of 3 for FQPA considerations plus a factor of 100 to account for inter-species extrapolation and intra-species variability).

2. *Short - and intermediate - term toxicity*. The Agency determined that the maternal NOEL of 50 mg/kg/day in the rabbit developmental study based on decreases in body weight and food consumption at the LOEL of 250 mg/kg/day should be used for short and intermediate-term exposure scenarios for both dermal and inhalation exposure. MOEs of 100 are required.

3. *Chronic toxicity*. EPA has established the RfD for buprofezin at 0.006 mg/kg/day. This RfD is based on a 2-year feeding study in dogs with a NOEL of 2.0 mg/kg/day and an uncertainty factor of 300 a factor of 3 for FQPA considerations, due to inadequate reproduction study, and a factor of 100 to account for inter-species extrapolation and intra-species variability based on a increased liver weight, increased liver enzymes, and bile duct hyperplasia at the LOEL of 20.0 mg/kg/day.

4. *Carcinogenicity*. Buprofezin has not been evaluated by the OPP's Hazard ID Committee. However, buprofezin will be likely be evaluated by the OPP Cancer Peer Review Committee based on lung and liver tumors in the mouse carcinogenicity study. For the purposes of these section 18 requests, the Agency calculated the cancer risk for buprofezin. The male mouse Q_2* based on combined lung tumors is 2.747 x 10^{-3}. The female mouse Q_1* on combined tumors is 2.488 x 10^{-3}.

B. Exposures and Risks

1. *From food and feed uses*. Section 18 time limited tolerances (40 CFR 180.511) have been established for the residues of buprofezin at 1.0 ppm in or on cotton seed; 2 ppm in citrus fruit; 10 ppm in dried citrus pulp; 20 ppm in cotton gin byproducts; 0.5 ppm in meat byproducts of cattle, goats, hogs, horse, and sheep; 0.02 ppm in the meat and fat of cattle, goats, hogs, horse, and sheep; and 0.03 ppm in milk. No permanent tolerances have been established. Risk assessments were conducted by EPA to assess dietary exposures and risks from buprofezin as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute dietary (food only) risk assessment used the TMRC. Since for acute dietary risk assessment, the acute effect is based on decreased fetal body weight and delayed ossification, the population subgroup of concern is females 13+ years of age. For this subgroup, an MOE value of 20,000 (equivalent to 1.5% of the acute RfD) was calculated using the high-end exposure value of 0.01 mg/kg/day. This result should be viewed as a conservative risk estimate.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions — 100% of cucurbits and tomatoes having buprofezin tolerances will contain buprofezin residues and those residues would be at the level of the tolerance — which result in an overestimation of human dietary exposure. Thus, in making a safety determination for this tolerance, HED is taking into account this conservative exposure assessment. The existing buprofezin tolerances (published, pending, and section 18 tolerances) include anticipated residues for citrus commodities, and thus result in an Anticipated Residue Contribution (ARC) that is equivalent to the following percentages of the RfD:

Population subgroup	%RfD
U.S. Population (48 States)	23.1%
U.S. Population - Summer Season	26.0%
Nursing Infants (<1 year old)	12.4%
Non-Nursing Infants (<1 year old)	47.4%
Children (1-6 years old)	48.2%
Children (7-12 years old)	34.6%
Northeast Region	24.7%
North Central Region	23.2%
Western Region	25.4%
Hispanics	25.4%
Non-Hispanic Whites	23.7%
Non-Hispanic Others	23.3%
Males (13-19 years old)	23.5%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water.* A Tier I drinking water assessment of buprofezin was conducted. This assessment utilized GENEEC and SCI-GROW screening models to provide estimates of surface and ground water contamination resulting from applications of buprofezin. The estimated environmental concentrations (EECs) using the GENEEC model ranged from a peak concentration of 2.82 parts per billion (ppb) to a 21-day average of 1.31 ppb for aerial application. For calculation of chronic DWLOCs, the higher 21-day average value (i.e., aerial) was used. Based on these screening models, maximum concentrations are not expected to exceed 3 ppb in surface water and 0.013 ppb in ground water. There are no established Maximum Contaminant Level for residues of buprofezin in drinking water. No health advisory levels for buprofezin in drinking water have been established.

Acute and chronic exposure and risk. The ''Interim Guidance for Conducting Drinking Water Exposure and Risk Assessments'' issued on 24-NOV-1997 using the GENEEC and the SCI-GROW models was used to produce estimates of buprofezin concentrations in surface and ground water respectively. The primary use of these models is to provide a coarse screen for sorting out pesticides for which OPP has a high degree of confidence that the true levels of the pesticide in drinking water will be less than the human health drinking water levels of concern (DWLOCs). The DWLOC is an upper limit above which residues in drinking water would result in an unacceptable aggregate risk.

The $DWLOC_{acute}$ is the concentration in drinking water as part of the acute aggregate exposure that occupies no more than 100% of the RfD_{acute}. The $DWLOC_{chronic}$ is the concentration in drinking water as part of the aggregate chronic exposure that occupies no more than 100% of the $RfD_{chronic}$. The Agency's default body weights and consumption values used to calculate DWLOCs are as follows: 70 kg/2L (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

For chronic (non-cancer) exposure to buprofezin in surface and ground water, the drinking water levels of concern are 23,000 µg/L for the U.S. Population, 19800 for females (13+ years), and 6,400 µg/L for children (1-6 yrs). To calculate the DWLOC for acute exposure relative to a acute toxicity endpoint, the acute dietary food exposure (from DRES) was subtracted from the acute RfD to obtain the acceptable acute exposure to buprofezin in drinking water. To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the chronic RfD to obtain the acceptable chronic (non-cancer) exposure to buprofezin in drinking water. DWLOCs were then calculated using default body weights and drinking consumption figures.

Estimated average concentrations of buprofezin in surface and ground water are 0.013 ppb and 1.31 ppb, respectively. The estimated average concentrations of buprofezin in surface and ground water are less than OPP's level of concern for buprofezin in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses and uses proposed in this action, OPP concludes with reasonable certainty that residues of buprofezin in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure.* Buprofezin is an unregistered active ingredient. Section 18 emergency exemptions have been approved for use on cotton, citrus, and tomatoes. An experimental use permit (EUP) has been granted for use on greenhouse ornamental plants. There are no registered residential uses for this chemical.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely

that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether buprofezin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, buprofezin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that buprofezin has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk*. For the subpopulation group of concern, females 13+ years, the acute dietary exposure to buprofezin from food will utilize 1.5 % of the acute RfD (calculated MOE is 20,000). The maximum concentrations of buprofezin in surface and ground water are less than OPP's levels of concern for buprofezin in surface and ground water as a contribution to acute aggregate risk. Therefore, the aggregate acute risk (food + water) is not expected to exceed the Agency's level of concern for acute dietary exposure.

2. *Chronic risk*. Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to buprofezin from food will utilize 23.1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to buprofezin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to buprofezin residues.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. There are no registered residential uses for buprofezin, therefore, the potential short and intermediate-term aggregate risks are adequately addressed by the chronic aggregate dietary (food + water) assessment.

D. Aggregate Cancer Risk for U.S. Population

Based on the buprofezin Q_2*, the dietary cancer risk for the U.S. population is 2.7×10^{-7}.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of buprofezin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This 100-fold uncertainty (safety) factor/MOE (safety) is designed to account for inter-species extrapolation and intra-species variability. HED believes that reliable data support using the 100-fold margin/factor, rather than the 1,000-fold margin/factor, when EPA has a complete data base under existing guidelines, and when the severity of the effect in infants or children, the potency or unusual toxic properties of a compound, or the quality of the exposure data do not raise concerns regarding the adequacy of the standard margin/factor.

ii. *Developmental toxicity studies*. In a developmental study in rats, the maternal (systemic) NOEL was 200 mg/kg/day, based on mortality, decreased pregnancy rates, and increased resorptions at the LOEL of 800 mg/kg/day. The developmental (fetal) NOEL was 200 mg/kg/day, based on increased incidence of delayed ossifications and decreased pup weight at the LOEL of 800 mg/kg/day.

In a developmental toxicity study in rabbits, the maternal (systemic) NOEL was 50 mg/kg/day, based on body weight and food consumption and possibly increased fetal loss at the LOEL of 250 mg/kg/day. The developmental (pup) NOEL was 250 mg/kg/day (highest dose tested).

iii. *Reproductive toxicity study*. The 2-generation reproductive toxicity in rats does not satisfy guideline requirements for a reproduction study and is considered a data gap.

iv. *Pre- and post-natal sensitivity*. The toxicological data base for evaluating pre- and post-natal toxicity for buprofezin is not complete with respect to current data requirements, since there is no adequate reproduction study. There are no pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies, but the Agency recommends an additional FQPA factor of 3 due to the absence of the reproduction study and the possible incomplete assessment of extra-sensitivity to infants and children.

v. *Conclusion*. Based on the above, the Agency concludes that reliable data support use of a 300-fold margin of exposure/uncertainty factor, rather than the standard 1,000-fold margin/factor, to protect infants and children for acute dietary MOE requirements and the determination of the RfD.

2. *Acute risk*. For females 13+ years, the acute dietary exposure (maternal and fetal) to buprofezin from food will utilize 1.5% of the acute RfD (calculated MOE is 20,000). These calculations are based on a developmental NOEL in rats of 200 mg/kg/day. This risk assessment assumed 100% crop treated with tolerance level residues on all treated crops consumed, resulting in a significant overestimate of dietary exposure. The maximum concentrations of buprofezin in surface and ground water are less than OPP's levels of concern for buprofezin in surface and ground water as a contribution to acute aggregate risk. Therefore, the aggregate acute risk (food + water) is not expected to exceed OPP's level of concern for acute dietary exposure.

3. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to buprofezin from food ranges from 12.4% of the RfD

for nursing infants less than 1 years old, up to 48.2% of the RfD for children 1-6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The estimated average concentrations of buprofezin in surface and ground water are less than OPP's levels of concern for buprofezin in surface and ground water as a contribution to chronic aggregate risk. Under current HED guidelines, the non-dietary uses of buprofezin do not constitute a chronic exposure scenario.

4. *Short- or intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are no registered residential uses for buprofezin, therefore the potential short and intermediate-term aggregate risks are adequately addressed by the chronic aggregate dietary (food + water) risk assessment.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants is adequately understood for purposes of this section 18 only. Studies conducted in tomatoes, lettuce, cotton, and citrus indicate that the residue of concern is the parent buprofezin (BF1, 2-tert-butylimino-3-isopropyl-5-phenylperhydro-1,3,5-thiadizinan-4-one) only. The nature of the residue in animals (rats and fish) is consistent with that determined for crops.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography using a nitrogen-phosphorous detector) is available to enforce the proposed tolerance on cucurbits and tomatoes. The method was validated by an independent laboratory using lettuce, tomato, and cucumber as the test matrices. Samples of the test matrices were fortified with buprofezin at 0.1 ppm, 0.5 ppm, and 1.0 ppm. Recoveries were reported as 90%, 94%, and 82% for lettuce, tomato, and cucumber respectively. In addition, methodology for buprofezin and its metabolites in cottonseed and gin trash is summarized in the report ''Determination of Buprofezin and BF 12 residues in Cottonseed and Gin Trash,'' Method BF-96-01, AgrEvo Corporation, Wilmington, Delaware. The limit of detection for buprofezin is 0.01 ppm and the limit of quantitation is 0.02 ppm.

C. Magnitude of Residues

Residues of buprofezin are not expected to exceed 0.5 ppm in/on cucurbits or 0.7 ppm in/on tomatoes and 1.0 ppm in tomato paste as a result of these section 18 uses.

D. International Residue Limits

A temporary Codex MRL of 1.0 mg/kg has been established for buprofezin on tomatoes (pending additional data submission). There are no Canadian or Mexican MRLs for buprofezin on tomatoes. Therefore, compatibility problems may exist (i.e., the Codex MRL is higher than the U.S. tolerance) which will need to be addressed when a permanent section 3 tolerance for buprofezin on tomatoes is granted.

E. Rotational Crop Restrictions

The following plant-back restrictions are required: - 30 days for brassica and non-brassica leafy vegetables, small grains, and radishes - 120 days for all other crops.

VI. Conclusion

Therefore, the tolerance is established for residues of buprofezin in cucurbits at 0.5 ppm, tomatoes at 0.7 ppm, and tomato paste at 1.0 ppm.

VII. Objections and Hearing Requests

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

Any person may, by October 5, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300689] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically

into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. 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. 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 180

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

Dated: July 16, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

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

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

2. Section 180.511 is amending paragraph (b) by alphabetically adding the following entries to the table to read as follows:

§ 180.511 Buprofezin; tolerances for residues

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* *	* *	*
Cucurbits	0.5	12/31/99
* *	* *	*
Tomatoes	0.7	12/31/99
Tomato paste	1.0	12/31/99

* * * * *

[FR Doc. 98–20906 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300688; FRL–6018–4]

RIN 2070–AB78

Fluroxypyr 1-Methylheptyl Ester; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in or on wheat, barley, field corn, and sweet corn. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on wheat, barley, field corn, and sweet corn. This regulation establishes a maximum permissible level for residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and are revoked on December 1, 1999.

DATES: This regulation is effective August 5, 1998. Objections and requests for hearings must be received by EPA on or before October 5, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300688], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300688], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300688]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, in or on wheat and barley, grain at 0.5 parts per million (ppm); wheat, forage at 12.0 ppm; wheat and barley, hay at 20.0 ppm; wheat and barley, straw at 12.0 ppm; aspirated grain fractions at 0.6 ppm; corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm; meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep 0.1 ppm; kidney of cattle, goats, hogs, horses, and sheep 0.5 ppm; milk 0.1 ppm. These tolerances will expire and are revoked on December 1, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Fluroxypyr 1-Methylheptyl Ester on Wheat, Barley, Field Corn, and Sweet Corn and FFDCA Tolerances

Fluroxypyr 1-methylheptyl ester was requested to control volunteer potatoes. It was stated that volunteer potatoes are one of the main sources for overwintering of obligate pests of potatoes including late blight and leafroll virus. The populations of volunteer potatoes are closely related to the severity of winter temperature conditions. When soil temperatures reach levels low enough to freeze tubers remaining in the soil after harvest, volunteer potatoes are generally not a problem. However, following mild winters, volunteer potatoes are always present in crops following potatoes in the rotation. Sustained temperatures of 28°F or less are required to kill the tubers and prevent emergence of volunteers.

The applicants stated that volunteer potato populations will be high in 1998 and that volunteer potato plants will act as a source of infection from both late blight and leafroll virus. EPA has authorized under FIFRA section 18 the use of fluroxypyr 1-methylheptyl ester on wheat, barley, field corn, and sweet corn for control of volunteer potatoes in Idaho, Michigan, Montana, Washington and kochia in North Dakota, and South Dakota. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fluroxypyr 1-methylheptyl ester in or on wheat, barley, field corn, and sweet corn. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 1, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on wheat, barley, field corn, and sweet corn after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful

under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether fluroxypyr 1-methylheptyl ester meets EPA's registration requirements for use on wheat, barley, field corn, and sweet corn or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of fluroxypyr 1-methylheptyl ester by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Idaho, Michigan, Montana, Washington, North Dakota, and South Dakota to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fluroxypyr 1-methylheptyl ester, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of fluroxypyr 1-methylheptyl ester and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr on wheat and barley, grain at 0.5 ppm; wheat, forage at 12.0 ppm; wheat and barley, hay at 20.0 ppm; wheat and barley, straw at 12.0 ppm; aspirated grain fractions at 0.6 ppm; corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm; meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep 0.1 ppm; kidney of cattle, goats, hogs, horses, and sheep 0.5 ppm; milk 0.1 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fluroxypyr 1-methylheptyl ester are discussed below.

1. *Acute toxicity*. For acute dietary risk assessment, the Agency is using a NOEL of 100 milligrams/kilogram/day (mg/kg/day), based on developmental effects (postimplantation loss) at the lowest effect level (LEL) of 250 mg/kg/day, from a developmental study in rabbits. This risk assessment will evaluate acute dietary risk to females 13+ years, the population subgroup of concern. An MOE of 300 is required because of FQPA considerations.

2. *Short - and intermediate - term toxicity*. For short and intermediate-term risk assessment, the Agency is using a NOEL of 100 mg/kg/day, based on developmental effects (postimplantation loss) at the LEL of 250 mg/kg/day, from a developmental study in rabbits. An MOE of 300 is required because of FQPA considerations.

3. *Chronic toxicity*. EPA has established the RfD for fluroxypyr 1-methylheptyl ester at 0.50 mg/kg/day. The RfD was established based on a 4-week range finding study in dogs with a NOEL of 50 mg/kg/day and an uncertainty factor of 100 based on histopathological lesions in the kidneys, decreased testes weight, and increased adrenal weight at the LEL of 150 mg/kg/day.

4. *Carcinogenicity*. Fluroxypyr has been classified as a ''not likely'' carcinogenic chemical by the Agency.

B. Exposures and Risks

1. *From food and feed uses*. No tolerances have been established for residues of fluroxypyr 1-methylheptyl ester. Risk assessments were conducted by EPA to assess dietary exposures and risks from fluroxypyr 1-methylheptyl ester as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute dietary (food only) risk assessment used the TMRC. The exposure estimate for females (13+ years) results in a dietary (food only) MOE of 50,000. This should be viewed as a conservative risk estimate; refinement using anticipated residue values and percent crop-treated data in conjunction with Monte Carlo analysis would result in a lower acute dietary exposure estimate.

ii. *Chronic exposure and risk*. In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions -- 100% of wheat, barley, field corn, and sweet corn and all other commodities having fluroxypyr 1-methylheptyl ester tolerances will contain fluroxypyr 1-methylheptyl ester residues and those residues would be at the level of the tolerance -- which result in an overestimation of human dietary exposure. Thus, in making a safety determination for this tolerance, HED is taking into account this conservative exposure assessment.

The existing fluroxypyr 1-methylheptyl ester tolerances (published, pending, and including the necessary section 18 tolerances) result in a TMRC that is equivalent to the following percentages of the RfD:

Population Subgroup	%RfD
U.S. Population (48 States)	0.41%
U.S. Population - Fall Season	0.43%
U.S. Population - Winter Season	0.43%
Northeast Region	0.43%
North Central Region	0.43%
Western Region	0.44%
Hispanics	0.48%

Population Subgroup	%RfD
Non-Hispanic Whites	0.42%
Non-Hispanic Others	0.43%
Nursing Infants (<1 year old)	0.39%
Non-Nursing Infants (<1 year old)	1.55%
Children (1-6 years old)	1.06%
Children (7-12 years old)	0.69%
Males (13-19 years old)	0.46%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water.* In terrestrial and aquatic environments, fluroxypyr 1-methylheptyl ester is rapidly hydrolyzed to fluroxypyr. Fluroxypyr is further degraded (although less rapidly) by microbes to 4-amino-3,5-dichloro-6-fluoro-pyridin-2-ol (''pyridinol'') and 4-amino-3,5-dichloro-6-fluoro-2-methoxypyridine (''methoxypyridine''). In aerobic environments, fluroxypyr, pyridinol, and methoxypyridine are ultimately degraded to carbon dioxide.

There are no established Maximum Contaminant Levels for residues of fluroxypyr 1-methylheptyl ester in drinking water. No health advisory levels for fluroxypyr 1-methylheptyl ester in drinking water have been established.

The assessment used SCI-GROW2 for groundwater assessment and GENEEC Version 1.2 for acute and chronic surface water assessments. Estimated environmental concentrations (EEC's) in surface water reflecting 0.25 lb acid equivalents/A/yr applied by air were 11.2 µg/L for acute and 3.9 µg/L for chronic. EEC's for groundwater were 0.025 µg/L parts per billion (ppb) for acute and chronic. The computer generated EECs represent conservative estimates and should be used only for screening.

i. *Acute exposure and risk.* OPP has calculated drinking water levels of concern (DWLOCs) for acute exposure to fluroxypyr in drinking water for the only relevant population subgroup, females (13+ years): 9,930 µg/L.

To calculate the DWLOCs for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from the DRES analysis) was subtracted from the ratio of the acute NOEL (used for acute dietary assessments) to the acceptable MOE for aggregate exposure to obtain the acceptable acute exposure to thiafluamide in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

Estimated maximum concentrations of fluroxypyr in surface and ground water are 11.2 ppb and 0.025 ppb, respectively and the DWLOC is 9,930 µg/L. The estimated maximum concentrations of fluroxypyr in surface and ground water are less than OPP's level of concern for fluroxypyr in drinking water as a contribution to acute aggregate exposure.

Therefore, taking into account present uses and uses proposed in this action, OPP concludes with reasonable certainty that residues of fluroxypyr in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

ii. *Chronic exposure and risk.* The ''Interim Guidance for Conducting Drinking Water Exposure and Risk Assessments'' issued on 24-NOV-1997 was followed for this assessment. Thus, the GENEEC model and the SCI-GROW model were run to produce estimates of fluroxypyr concentrations in surface and ground water, respectively. The primary use of these models is to provide a coarse screen for sorting out pesticides for which OPP has a high degree of confidence that the true levels of the pesticide in drinking water will be less than the human health drinking water levels of concern (DWLOCs). A DWLOC is the concentration of a pesticide in drinking water which would be acceptable as an upper limit in light of total aggregate exposure to that chemical from food, water, and non-occupational (residential) sources.

The $DWLOC_{chronic}$ is the concentration in drinking water as a part of the aggregate chronic exposure that occupies no more than 100% of the RfD. The Agency's default body weights and water consumption values used to calculate DWLOCs are as follows: 70 kg/2L (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

For chronic (non-cancer) exposure to fluroxypyr in surface and ground water, the drinking water levels of concern are 17,400 µg/L for the U.S. population, 14,900 µg/L for females (13+ years), and 4,950 µg/L for children (1-6 yrs). To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to fluroxypyr in drinking water. DWLOCs were then calculated using default body weights and drinking consumption figures.

Estimated average concentrations of fluroxypyr in surface and ground water are 3.9 ppb and 0.025 ppb, respectively. The DWLOCs are 17,400 µg/L for the U.S. population, 14,900 µg/L for females (13+ years), and 4,950 µg/L for children (1-6 yrs). The estimated average concentrations of fluroxypyr in surface and ground water are less than OPP's level of concern for fluroxypyr in drinking water as a contribution to chronic aggregate exposure.

3. *From non-dietary exposure.* There are no registered or proposed residential uses for fluroxypyr 1-methylheptyl ester or fluroxypyr.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the

Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether fluroxypyr 1-methylheptyl ester has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluroxypyr 1-methylheptyl ester does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluroxypyr 1-methylheptyl ester has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* For the population subgroup of concern, females 13+ years, the calculated Margin of Exposure (MOE) value (food) is 50,000. The Agency acknowledges the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water, but does not expect that exposure would result in an aggregate MOE (food plus water) that would exceed the Agency's level of concern for acute dietary exposure.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to fluroxypyr 1-methylheptyl ester from food will utilize 0.41% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fluroxypyr 1-methylheptyl ester residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. There are no proposed residential uses for fluroxypyr. Therefore, the short and intermediate aggregate risks are adequately addressed by the chronic aggregate dietary risk assessment.

D. Aggregate Cancer Risk for U.S. Population

Fluroxypyr has been classified as a ''not likely'' carcinogenic chemical by the Agency.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fluroxypyr 1-methylheptyl ester, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. This is generally the case -- edit if different studies. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This 100-fold uncertainty (safety) factor/margin of exposure (safety) is designed to account for inter-species extrapolation and intra-species variability. HED believes that reliable data support using the 100-fold margin/factor, rather than the 1,000-fold margin/factor, when EPA has a complete data base under existing guidelines, and when the severity of the effect in infants or children, the potency or unusual toxic properties of a compound, or the quality of the exposure data do not raise concerns regarding the adequacy of the standard margin/factor.

ii. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOEL was 125 mg/kg/day, based on clinical signs at the lowest observed effect level (LOEL) of 250 mg/kg/day. The developmental (fetal) NOEL was 250 mg/kg/day, based on reduced ossification at the LOEL of 500 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOEL was 250 mg/kg/day, based on maternal deaths at the LOEL of 400 mg/kg/day. The developmental (pup) NOEL was 125 mg/kg/day, based on increased postimplantation loss at the LOEL of 250 mg/kg/day.

iii. *Reproductive toxicity study.* In the 2-generation reproductive toxicity study in rats, the maternal (systemic) NOEL was 100 mg/kg/day, based on increased kidney weights and kidney histopathology at the LOEL of 500 mg/kg/day. The developmental (pup) NOEL was 500 mg/kg/day, based on decreased body weight at the LOEL of 1,000 mg/kg/day. The reproductive NOEL was 1,000 mg/kg/day HDT.

iv. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating pre- and post-natal toxicity for fluroxypyr is complete with respect to current data requirements. Based on the results of the rabbit developmental toxicity study for fluroxypyr there does appear to be an extra sensitivity for pre-natal effects.

v. *Conclusion.* Based on the above, EPA concludes that reliable data support use of a 300-fold margin of exposure/uncertainty factor, rather than the standard 1000-fold margin/factor, to protect infants and children.

2. *Acute risk.* The acute dietary MOE (food) was calculated to be 6,666 for infants (<1 year), 10,000 for children (1-6 years), and 50,000 females 13+ years (accounts for both maternal and fetal exposure). These MOE calculations were based on the developmental NOEL in rabbits of 100 mg/kg/day. This risk assessment assumed 100% crop-treated with tolerance level residues on all treated crops consumed, resulting in a significant over estimation of dietary exposure. The large acute dietary MOE calculated for females 13+ years and the infants <1 year subgroup (lowest MOE) provides assurance that there is a reasonable certainty of no harm for females 13+ years, infants, and children.

EPA acknowledges the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water, but does not expect that exposure would result in aggregate MOEs (food plus water) that

would exceed the Agency's level of concern for acute dietary exposure.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to fluroxypyr 1-methylheptyl ester from food ranges from 0.39% of the RfD for nursing infants (<1 year old) up to 1.55% of the RfD for non-nursing infants (<1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fluroxypyr 1-methylheptyl ester residues.

4. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are no proposed residential uses for fluroxypyr. Therefore, the short and intermediate aggregate risks are adequately addressed by the chronic aggregate dietary risk assessment.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. The residues of concern in plants and animals are fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available for plants (GC/MS and capillary gas chromatography/MS) to enforce the tolerance expression. The petitioner validated the limit of quantitation at 0.01 ppm for cereal grains and 0.05 ppm for forage, straw, and hay of cereal grains.

Adequate enforcement methodology is available for livestock (GC/ECD and capillary gas chromatography with mass selective detection) to enforce the tolerance expression. The petitioner validated the limit of quantitation of Method GRM 96.03 at 0.01 ppm for all animal substrates.

C. Magnitude of Residues

Residues of fluroxypyr 1-methylheptyl ester and fluroxypyr are not expected to exceed the following levels in RAC's and processed commodities of wheat, barley, sweet corn, field corn, and animal commodities as a result of this section 18 use. For this section 18 only, EPA will permit the sweet corn residue data to be translated to field corn.

Commodity	Parts per million
Aspirated grain fractions	0.6 ppm
Corn, field, forage	2.0 ppm
Corn, field, grain	0.05 ppm
Corn, field, stover	2.5 ppm
Corn, sweet, forage	2.0 ppm
Corn, sweet, K + CWHR	0.05 ppm
Corn, sweet, stover	2.5 ppm
Kidney of cattle, goats, hogs, horses, and sheep	0.5 ppm
Meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep	0.1 ppm
Milk	0.1 ppm
Wheat and barley, grain	0.5 ppm
Wheat and barley, hay	20.0 ppm
Wheat and barley, straw	12.0 ppm
Wheat, forage	12.0 ppm

D. International Residue Limits

There are no CODEX, Canadian, or Mexican tolerances for residues of fluoroxypyr 1-methylheptyl ester on wheat, barley, sweet corn, or field corn.

E. Rotational Crop Restrictions

A confined rotational crop study was conducted in which fluroxypyr was applied at the rate of 8.8 oz ae/A. Residues in crops planted 120 days after soil treatment were 0.01 to 0.08 ppm; however, based on this study and the section 18 use rates, residues of fluroxypyr 1-methylheptyl ester and fluroxypyr are not expected to occur in rotational crops at levels >0.01 ppm at the 120-day plant-back interval. The statement ''Observe a 120-day plant-back interval'' is needed on the Section 18 label, based on the confined rotational crop study.

VI. Conclusion

Therefore, the tolerance is established for combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in wheat and barley, grain at 0.5 ppm; wheat, forage at 12.0 ppm; wheat and barley, hay at 20.0 ppm; wheat and barley, straw at 12.0 ppm; aspirated grain fractions at 0.6 ppm; corn, sweet, K + CWHR at 0.05 ppm; corn, sweet, forage at 2.0 ppm; corn, sweet, stover at 2.5 ppm; corn, field, grain at 0.05 ppm; corn, field, forage at 2.0 ppm; corn, field, stover at 2.5 ppm; meat, fat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep 0.1 ppm; kidney of cattle, goats, hogs, horses, and sheep 0.5 ppm; milk 0.1 ppm.

VII. Objections and Hearing Requests

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

Any person may, by October 5, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300688] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. 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. 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 180

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

Dated: July 16, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

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

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

2. Section 180.535 is added to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

(a) *General.* [Reserved]

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/ RevocationDate
Aspirated grain fractions	0.6	12/1/99
Barley, grain	0.5	12/1/99
Barley, hay	20.0	12/1/99
Barley, straw	12.0	12/1/99
Cattle, fat	0.1	12/1/99
Cattle, kidney	0.5	12/1/99
Cattle, mbyp	0.1	12/1/99
Cattle meat	0.1	12/1/99
Corn, field, forage	2.0	12/1/99
Corn, field, grain	0.05	12/1/99
Corn, field, stover	2.5	12/1/99
Corn, sweet, forage	2.0	12/1/99
Corn, sweet, K + CWHR	0.05	12/1/99
Corn, sweet, stover	2.5	12/1/99
Goats, fat	0.1	12/1/99
Goats, kidney	0.5	12/1/99
Goats, mbyp	0.1	12/1/99
Goats, meat	0.1	12/1/99
Hogs, fat	0.1	12/1/99
Hogs, kidney	0.5	12/1/99
Hogs, mbyp	0.1	12/1/99
Hogs, meat	0.1	12/1/99
Horses, fat	0.1	12/1/99
Horses, kidney	0.5	12/1/99
Horses, mbyp	0.1	12/1/99
Horses, meat	0.1	12/1/99
Milk	0.1	12/1/99
Sheep, fat	0.1	12/1/99
Sheep, kidney	0.5	12/1/99
Sheep, mbyp	0.1	12/1/99
Sheep meat	0.1	12/1/99
Wheat, forage	12.0	12/1/99
Wheat, grain	0.5	12/1/99
Wheat, hay	20.0	12/1/99

Commodity	Parts per million	Expiration/ RevocationDate
Wheat, straw	12.0	12/1/99

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–20905 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–231; RM–8903]

Radio Broadcasting Services; Redwood, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 288A to Redwood, Mississippi, as that community's first local aural transmission service, in response to a petition filed by Dominant Communications Corporation. See 61 FR 63809, December 2, 1996. Coordinates used for Channel 288A at Redwood are 32–27–13 NL and 90–48–42 WL. With this action, the proceeding is terminated.

DATES: Effective September 14, 1998. A filing window for Channel 288A at Redwood, Mississippi, 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: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process for Channel 288A at Redwood, Mississippi, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–231, adopted July 22, 1998, and released July 31, 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.

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 reads 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 Mississippi, is amended by adding Redwood, Channel 288A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–20817 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–229; RM–9100, RM–9231]

Radio Broadcasting Services; Warrenton and Enfield, NC, La Crosse and Powhatan, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of MainQuad, Inc., substitutes Channel 297A for Channel 297C2 at Warrenton, NC, reallots Channel 297A to Powhatan, VA, as the community's first local aural service, and modifies the construction permit of Station WXNC to specify Powhatan as its community of license, and also allots Channel 297A to Enfield, NC, as the community's first local aural service. *See* 62 FR 61721, November 21, 1997. Channel 297A can be allotted to Powhatan in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.2 miles) southeast, at coordinates 37–28–02 North Latitude and 77–51–10 West Longitude, to avoid short-spacings to Stations WRQX, Channel 297B, Washington, DC and WUMX, Channel 298A, Charlotte, VA. Channel 297A can be allotted to Enfield with a site restriction of 1.7 kilometers (1 mile) northwest, at coordinates 36–11–09; 77–41–40, to avoid a short-spacing to Station WNCT–FM, Channel 300C, Greenville, NC. Mainquad, Inc.'s proposal to reallot Channel 297C2 from Warrenton to LaCrosse, VA, is dismissed. With this action, this proceeding is terminated.

DATES: Effective September 14, 1998. A filing window for Channel 297A at Enfield, NC, 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. 97–229, adopted July 22, 1998, and released July 31, 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 North Carolina, is amended by removing Warrenton, Channel 297C2, and adding Enfield, Channel 297A.

3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Powhatan, Channel 297A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–20816 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[I.D. 073098A]

Atlantic Shark Fisheries; Large Coastal Shark Species

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

ACTION: Closure.

SUMMARY: NMFS is closing the commercial fishery for large coastal sharks conducted by persons aboard vessels issued a Federal Atlantic shark permit in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea. This action is necessary to ensure that the adjusted second semiannual quota for the period July 1 through December 31, 1998, is not exceeded.

DATES: The closure is effective from 11:30 p.m. local time August 4, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347, fax 301–713–1917; or Buck Sutter, 727–570–5447, fax 727–570–5364.

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

Section 678.24(b) of the regulations provides for two semiannual quotas of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishers. The second semiannual quota is available for harvest from July 1 through December 31, 1998.

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

The first semiannual quota was available for harvest from January 1 through June 30, 1998. Final data indicated that the catch of large coastal shark species from January 1 through March 31, 1998, totaled 684.8 mt, which was 42 mt more than the established quota. Therefore, the adjusted quota for large coastal shark species for the second 1998 semiannual period was decreased from 642 mt to 600 mt (63 FR 29355, May 29, 1998).

The AA has determined, based on the reported catch and other relevant factors, that the adjusted semiannual quota for the period July 1 through December 31, 1998, for large coastal sharks in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of August 3, 1998. During the closure, retention of large coastal sharks is prohibited for persons fishing aboard vessels issued a permit under § 678.4, unless the vessel is operating as a charter vessel or headboat, in which case the vessel may retain up to two large coastal sharks per trip subject to the provisions of § 678.25(a)(2). The retention, sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of carcasses and/or fins of large coastal sharks harvested by a person aboard a vessel that has been issued a permit under § 678.4 is prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure, and were held in storage by a dealer or processor.

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

Classification

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

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

Dated: July 30, 1998.

Bruce Morehead,

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

[FR Doc. 98–20828 Filed 7–30–98; 4:40 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 150
Wednesday, August 5, 1998

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–108–AD]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all IAI, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes, that currently requires repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. That AD also provides for optional terminating action for the repetitive inspections. This action would require accomplishment of the previously optional terminating action. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the trim actuator of the horizontal stabilizer due to failure of the jackscrews, which could result in reduced controllability of the airplane.

DATES: Comments must be received by September 4, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Galaxy Aerospace Corporation, One Galaxy Way, Fort Worth Alliance Airport, Fort Worth, Texas 76177. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–108–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 24, 1998, the FAA issued AD 98–05–09, amendment 39–10370 (63 FR 11106, March 6, 1998), applicable to all Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes, to require repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. That action was prompted by a report indicating that, during an inspection, an operator found one sheared actuator jackscrew of the horizontal stabilizer on an airplane, which caused the rod end to separate from the jackscrew. The requirements of that AD are intended to ensure that the trim actuator of the horizontal stabilizer operates properly; failure of the actuator to operate properly could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

When AD 98–05–09 was issued, it contained a provision for an optional replacement of the trim actuator of the horizontal stabilizer with a modified trim actuator with modified jackscrew assemblies, which, if accomplished, would constitute terminating action for the required repetitive inspections. Moreover, in AD 98–05–09, the FAA indicated that the inspections required by that AD are to be performed as interim action, and that it was considering further rulemaking to require replacement of the trim actuator of the horizontal stabilizer. This action proposes such a requirement, to be accomplished in accordance with Commodore Jet Service Bulletin SB 1121–27–025, dated December 22, 1997 (for Model 1121, 1121A, and 1121B series airplanes); Westwind Service Bulletin SB 1123–27–047, dated September 1, 1997 (for Model 1123 series airplanes); or Westwind Service Bulletin 1124–27–136, dated September 1, 1997 (for Model 1124 and 1124A series airplanes). These service bulletins were described previously in AD 98–05–09.

The FAA's determination to require accomplishment of the terminating modification is based on the fact that the repetitive inspections currently required by AD 98–05–09 only detect

failures of the jackscrew, rather than detecting reduced structural integrity of these parts. That is, the inspections cannot determine whether cracking exists that may result in future structural failure of the horizontal stabilizer jackscrews. In order to adequately detect such cracking, a non-destructive test (NDT) inspection method would be required. However, use of any NDT inspection method would necessitate removal and disassembly of the horizontal stabilizer in order to gain access to the jackscrews for such inspection, which would entail considerable work hours. Additionally, such inspections would be required to be accomplished on a repetitive basis.

Therefore, the FAA has determined that long-term continued operational safety will be better assured by replacement of the trim actuator with a trim actuator having a modified jackscrew assembly to remove the source of the problem, rather than by repetitive inspections. The proposed replacement requirement is also in consonance with actions taken by the Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel. (The CAAI issued Israeli airworthiness directive 27–97–09–02 on September 4, 1997, which requires replacement of the trim actuator with a modified trim actuator, in order to assure the airworthiness of these airplanes in Israel.)

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–05–09 to continue to require repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. In addition, the proposed AD would require the eventual replacement of the trim actuator of the horizontal stabilizer with a modified trim actuator with modified jackscrew assemblies, which would terminate the repetitive inspection requirements.

The FAA notes that Israeli airworthiness directive 27–97–09–02, dated September 4, 1997, includes a note that references the revised Instructions for Continued Airworthiness for inspection requirements, overhaul requirements, and service life limitations of the modified trim actuator and its modified jackscrew assemblies and other parts. The FAA is considering further rulemaking to mandate compliance with the new inspections and life limitations requirements.

Cost Impact

There are approximately 295 airplanes of U.S. registry that would be affected by this proposed AD.

The inspections that are currently required by AD 98–05–09 take approximately 4 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 $70,800, or $240 per airplane, per inspection cycle.

The new replacement that is proposed by this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $49,500 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $14,673,300, or $49,740 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10370 (63 FR 11106, arch 6, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Israel Aircraft Industries (IAI), Ltd.: Docket 98–NM–108–AD. Supersedes AD 98–05–09, Amendment 39–10370.

Applicability: All Model 1121, 1121A, 1121B, 1123, 1124, and 1124A 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 prevent failure of the trim actuator of the horizontal stabilizer due to failure of the

jackscrews, which could result in reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of Paragraphs (a) and (b) of AD 98–05–09

(a) Perform an inspection of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, in accordance with Commodore Jet Service Bulletin SB 1121–27–023, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1121, 1121A, and 1121B series airplanes); Westwind Service Bulletin SB 1123–27–046, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1123 series airplanes); or Westwind Service Bulletin SB 1124–27–133, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1124 and 1124A series airplanes); as applicable; at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes that have accumulated 6,000 or more total flight cycles, or on which the horizontal trim actuator has accumulated 2,000 or more flight cycles, as of April 10, 1998 (the effective date of AD 98–05–09, amendment 39–10370): Inspect within 50 flight hours after April 10, 1998. Repeat the inspection thereafter at intervals not to exceed 300 flight hours (for Model 1121, 1121A, 1121B, and 1123 series airplanes); or 400 flight hours (for Model 1124 and 1124A series airplanes); as applicable.

(2) For airplanes that have accumulated less than 6,000 total flight cycles, and on which the horizontal trim actuator has accumulated less than 2,000 total flight cycles, as of April 10, 1998: Inspect at the time specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) For Model 1121, 1121A, 1121B, and 1123 series airplanes: Inspect within 300 flight hours after April 10, 1998. Repeat the inspection thereafter at intervals not to exceed 300 flight hours.

(ii) For Model 1124 and 1124A series airplanes: Inspect within 400 flight hours after April 10, 1998. Repeat the inspection thereafter at intervals not to exceed 400 flight hours.

(b) If any discrepancy is found during any inspection required by paragraph (a) of this AD, prior to further flight, replace the actuator or tie rod, as applicable, in accordance with Commodore Jet Service Bulletin SB 1121–27–023, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1121, 1121A, and 1121B series airplanes); Westwind Service Bulletin SB 1123–27–046, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1123 series airplanes); or Westwind Service Bulletin 1124–27–133, dated August 14, 1996, or Revision 1, dated May 28, 1997 (for Model 1124 and 1124A series airplanes); as applicable.

New Requirements of this AD

(c) Within 18 months after the effective date of this AD, replace the trim actuator of the horizontal stabilizer with a modified trim actuator with modified jackscrew assemblies (part number 21164–362 and –363 for Model 1121, 1121A, and 1121B series airplanes; part number 21164–360 and –361 for Model 1123 series airplanes; or part number 21164–360 and –361 for Model 1124 and 1124A series airplanes), in accordance with Commodore Jet Service Bulletin SB 1121–27–025, dated December 22, 1997 (for Model 1121, 1121A, and 1121B series airplanes); Westwind Service Bulletin SB 1123–27–047, dated September 1, 1997 (for Model 1123 series airplanes); or Westwind Service Bulletin SB 1124–27–136, dated September 1, 1997 (for Model 1124 and 1124A series airplanes); as applicable. Accomplishment of this replacement terminates the repetitive inspections required by this AD.

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

Note 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.

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

Note 3: The subject of this AD is addressed in Israeli airworthiness directive 27–97–09–02, dated September 4, 1997.

Issued in Renton, Washington, on July 29, 1998.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–20835 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–53–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require a detailed visual inspection to detect corrosion inside the forward trunnion joint of the main landing gear (MLG); follow-on actions; and repair, if necessary. The proposal also provides for optional terminating action for the repetitive inspections. This proposal is prompted by reports of corrosion at the forward trunnion thrust face, tabs, and the internal threads of the forward trunnion of the MLG due to moisture in the forward trunnion joint. The actions specified by the proposed AD are intended to prevent corrosion of the forward trunnion joint, which could lead to a stress corrosion fracture of the forward trunnion and possible consequent collapse of the MLG.

DATES: Comments must be received by September 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–53–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by

interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–53–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–53–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of corrosion at the forward trunnion thrust face and tabs, and at the internal threads of the forward trunnion of the outer cylinder of the main landing gear (MLG) on Boeing Model 767 series airplanes. During the first overhaul of those airplanes, similar corrosion damage was found on several of the MLG's that were removed from these airplanes. These MLG's had accumulated between 20,000 and 26,000 total hours time-in-service, and between 7,000 and 9,000 total landings. The presence of corrosion, due to moisture in the trunnion joint, could lead to stress corrosion cracking of the forward trunnion. Such stress corrosion cracking, if not corrected, could result in a stress corrosion fracture of the forward trunnion and possible consequent collapse of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–32A0127, dated January 29, 1996, which describes procedures for performing a detailed visual inspection to detect corrosion inside the forward trunnion joint of the MLG; follow-on actions; and repair, if necessary. The follow-on actions include either application of chrome plating to the forward trunnion, or application of corrosion-inhibiting compound to the forward trunnion and repetitive inspections for corrosion thereafter. Application of the chrome plating to the forward trunnion would eliminate the need for the repetitive inspections.

The service bulletin references Component Maintenance Manual 32–11–40, dated June 1, 1994, as an additional source of service information.

Explanation of Requirements of Proposed Rule

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

Cost Impact

There are approximately 455 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 151 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 8 work hours per airplane to accomplish the proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $72,480, or $480 per airplane, per inspection cycle.

The cost impact figures above do not account for the time to gain access to the forward trunnion joint or to return a main landing gear to service. In this case, however, the access and close-up work hours may account for the predominant portion of the total cost impact of this proposed AD. It is estimated that it would take approximately 65 work hours to gain access to both forward trunnion joints, and 89 work hours to return the airplane to service. If these costs are included, the cost impact for the proposed visual inspections would be approximately $1,467,720, or $9,720 per airplane, per inspection cycle.

The repair of the forward trunnions (two per airplane), which would include both corrosion blend-out repairs as well as the application of chrome plate to certain portions of the forward trunnion, would take approximately 72 work hours to accomplish, at an average labor rate of $60 per work hour. The cost of the repair kits would be approximately $16,000 per airplane. Based on these figures, the cost impact of the proposed repair on U.S. operators is estimated to be $3,068,320, or $20,320 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 97–NM–53–AD.

Applicability: Model 767 series airplanes, manufacturer's line positions 001 through 455 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 (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 corrosion of the forward trunnion joint of the main landing gear (MLG), which could lead to a stress corrosion fracture of the forward trunnion and possible consequent collapse of the MLG, accomplish the following:

(a) Within 6 years since the outer cylinder of the MLG was new, last overhauled, or installed (replaced) after the last corrosion repair in accordance with Boeing Alert Service Bulletin 767–32A0127, dated January 29, 1996; or within 18 months after the effective date of this AD; whichever occurs later: Perform a detailed visual inspection to detect corrosion inside the forward trunnion joint and the internal threads of the MLG; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0127, dated January 29, 1996.

(1) If no corrosion of the forward trunnion joint is found, prior to further flight, accomplish either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Apply chrome plating to the forward trunnion thrust and tab faces in accordance with the alert service bulletin. Accomplishment of this application of chrome plating constitutes terminating action for the requirements of this AD.

(ii) Apply corrosion-inhibiting compound to the forward trunnion joint in accordance with the Accomplishment Instructions of the alert service bulletin. Repeat the detailed visual inspection thereafter at intervals not to exceed six years or until chrome plating is applied to the forward trunnion thrust and tab faces in accordance with the alert service bulletin.

(2) If any corrosion of the forward trunnion joint is found, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Repair the forward trunnion and apply chrome plating to the forward trunnion thrust and tab faces in accordance with the alert service bulletin. Accomplishment of this application of chrome plating constitutes terminating action for the requirements of this AD.

(ii) Repair the forward trunnion and apply corrosion-inhibiting compound to the forward trunnion joint in accordance with the alert service bulletin. Repeat the detailed visual inspection thereafter at intervals not to exceed six years or until chrome plating is applied to the forward trunnion thrust and tab faces in accordance with the alert service bulletin.

(b) Replacement, repair, or overhaul of the outer cylinder of the MLG that includes the application of chrome plating to the forward trunnion thrust and tab faces in accordance with Boeing Alert Service Bulletin 767–32A0127, dated January 29, 1996, constitutes terminating action for the requirements of this AD.

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

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

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

Issued in Renton, Washington, on July 29, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–20834 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–04–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, that would have required modification of the flight compartment door. That proposal was prompted by a report that the door lock mechanism of the flight compartment door jammed and could not be opened using the alternate release mechanism. This new action would add repetitive inspections for wear of the flight compartment door hinges following modification, and repair or replacement of the hinges with new hinges, if necessary. This new action also revises the applicability of the existing AD. The actions specified by this new proposed AD are intended to prevent failure of the alternate release mechanism of the flight compartment door, which could delay or impede the evacuation of the flightcrew during an emergency. Such failure also could result in the flightcrew not being able to assist passengers in the event of an emergency.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–04–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Equipment Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7520; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Docket Number 97–NM–04–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–04–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 11, 1997 (62 FR 37170). That NPRM would have required modification of the flight compartment door. That NPRM was prompted by a report that the door lock mechanism of the flight compartment door jammed and it could not be opened using the alternate release mechanism. That condition, if not corrected, could result in failure of the alternate release mechanism of the flight compartment door, which could delay or impede the evacuation of the flightcrew during an emergency. Such failure also could result in the flightcrew not being able to assist passengers in the event of an emergency.

Actions Since Issuance of Previous Proposal

Since the issuance of that NPRM, the manufacturer has issued de Havilland Service Bulletin S.B. 8–52–39, Revision 'C,' dated September 1, 1997, and Revision 'D,' dated February 27, 1998.

Among other things, Revision 'C' revises the effectivity of the earlier releases of the service bulletin. In addition, the Accomplishment Instructions of the service bulletin have been revised to include a section titled ''Special Inspection/Repair,'' which describes procedures for repetitive inspections of the door hinges for wear. For airplanes on which any wear is found that is greater than 0.050 inch in depth, the service bulletin describes procedures for removal and replacement of the hinges with new hinges. For airplanes on which any wear is found that is less than 0.050 inch, but greater than 0.020 inch in depth, the service bulletin describes procedures for repair of the hinge.

Revision 'D' is essentially identical to Revision 'C;' however, it provides information for an additional modification kit for certain Model DHC–8–300 series airplanes with a forward galley where a –100 series lavatory has been installed.

Transport Canada Aviation, which is the airworthiness authority for Canada, classified these service bulletin revisions as mandatory and issued Canadian airworthiness directive CF–96–20R2, dated July 16, 1997, in order to assure the continued airworthiness of these airplanes in Canada.

Changes to the Original NPRM

The FAA has determined that, in order to adequately address the unsafe condition presented by problems associated with the flight compartment door, the originally proposed rule must be revised to require repetitive inspections for wear of the modified flight compartment door hinges, and repair, if necessary. These additional actions would be required to be accomplished in accordance with the revised service bulletins described previously.

Additionally, the applicability of this supplemental NPRM has been revised to correspond with the revised service bulletin effectivity discussed previously.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Interim Action

This is considered to be interim action. The manufacturer has advised the FAA that it currently is developing a modification that will eliminate the need for the repetitive inspections for wear of the flight compartment door hinges. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

The FAA estimates that 133 de Havilland Model DHC–8–100, –200, and –300 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 4 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $31,920, or $240 per airplane.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $15,960, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

De Havilland, Inc.: Docket 97–NM–04–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes having serial numbers 3 and subsequent; 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 alternate release mechanism of the flight compartment door, which could delay or impede the evacuation of the flightcrew and passengers during an emergency, accomplish the following:

(a) Within 90 days after the effective date of this AD, modify the lower hinge assembly and main door latch (Modification 8/2337) of the flight compartment door, in accordance with de Havilland Service Bulletin S.B. 8–52–39, Revision 'D,' dated February 27, 1998.

Note 2: Modification of the flight compartment door accomplished prior to the effective date of this AD in accordance with de Havilland Service Bulletin S.B. 8–52–39, dated August 30, 1996; Revision 'A,' dated October 31, 1996; Revision 'B,' dated July 4, 1997; or Revision 'C,' dated September 1, 1997; is considered acceptable for compliance with the modification required by paragraph (a) of this AD.

(b) Within 800 flight hours after accomplishment of the modification required by paragraph (a) of this AD, inspect the hinge areas around the hinge pin holes of the flight compartment door for wear, in accordance with de Havilland Service Bulletin S.B. 8–52–39, Revision 'C,' dated September 1, 1997, or Revision 'D,' dated February 27, 1998.

(1) If no wear is detected, or if the wear is less than or equal to 0.020 inch in depth, repeat the inspection thereafter at intervals not to exceed 800 flight hours.

(2) If any wear is detected and its dimension around the hinge pin holes is less than 0.050 inch and greater than 0.020 inch in depth, prior to further flight, perform the applicable corrective actions specified in the service bulletin. Repeat the inspection thereafter at intervals not to exceed 800 flight hours.

(3) If any wear is detected and its dimension around the hinge pin holes is greater than or equal to 0.050 inch in depth, prior to further flight, replace the worn hinges with new hinges in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 800 flight hours.

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

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

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–96–20R2, dated July 16, 1997.

Issued in Renton, Washington, on July 29, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–20833 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 65, 66, and 147

[Docket No. 27863; Notice No. 98–5]

RIN 2120–AF22

Revision of Certification Requirements: Mechanics and Repairmen; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM); correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** on July 9, 1998, (63 FR 37172) that would revise the certification requirements for mechanics and repairmen. This correction provides the public with the correct telephone number to obtain a copy of the NPRM.

FOR FURTHER INFORMATION CONTACT: Leslie K. Vipond, AFS–350, Continuous Airworthiness Maintenance Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington DC 20591, telephone: (202) 267–3269.

Correction

In proposed rule FR Doc. 98–17589 beginning on page 37172 in the **Federal Register** issue of Thursday, July 9, 1998, make the following correction:

On page 37172, in the Availability of NPRMs section, in the third column, in the second complete paragraph, on line 7, the telephone number specified to obtain a copy of the NPRM is listed as ''(202) 267–9860.'' This should be changed to read ''(202) 267–9680.''

Issued: in Washington, DC on July 31, 1998.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 98–20934 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–12]

RIN 2120–AA66

Proposed Modification of the Salt Lake City Class B Airspace Area; Utah

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Salt Lake City, UT, Class B airspace area. Specifically, this action proposes to reconfigure three existing subarea boundaries. The FAA is proposing this action to enhance safety and improve the flow of air traffic into, out of, through, and around the Salt Lake City Class B airspace area, while accommodating the concerns of airspace users.

DATES: Comments must be received on or before October 5, 1998.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, *Attention:* Rules Docket, AGC–200, Airspace Docket No. 95–AWA–12, 800 Independence Avenue, SW., Washington DC 20591. Comments may also be sent electronically to the following Internet address: 9–NPRM–CMTS@faa.dot.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. An informal docket may also be examined during normal business hours at the Office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division,

ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; *Telephone:* (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and should be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWA–12.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will also be filed in the docket.

Availability of NPRM's

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) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661), using a modem and suitable communications software.

Internet users may reach the **Federal Register**'s web page at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677 for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Related Rulemaking

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace areas (now known as Class B airspace areas).

The Terminal Control Airspace area (TCA) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increases the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of these airspace areas afford the greatest protection for the greatest number of people by giving air traffic control increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of these airspace areas contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in Paragraph 3000 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA (now known as Class B airspace area) primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule discontinued the use of the term ''Terminal Control Area'' and replaced it with the designation ''Class B airspace area.'' This change in terminology is reflected in the remainder of this NPRM.

The Proposal

This action proposes to modify the Salt Lake City Class B airspace area. The FAA periodically reviews existing airspace areas to determine whether there is an operational need to modify the area. These proposed modifications reflect input from system users regarding operational needs, limitations, and local geographical anomalies. The proposed changes would reduce the lateral boundaries of Areas A and H, and redesign Area M of the Salt Lake City Class B airspace as follows:

Area A. The current boundary of Area A is not easily identifiable by geographical landmarks and also serves as a barrier to GA aircraft transiting north-south along Interstate 15 (I–15), requiring pilots to obtain a clearance to enter Class B airspace. Further, the portion of Area A east of I–15 provides no operational advantage to ATC. This action proposes to redefine the boundary of Area A using easily

identifiable geographical landmarks that would allow those aircraft that do not desire to enter the Class B airspace area a means of transition along the east side of I–15.

Area H. The proposed design of this area, i.e., moving the existing boundary approximately two miles to the east, would provide additional maneuvering area for VFR aircraft wishing to remain clear of the Class B airspace area. Further, the portion of Area H southwest of the Salt Lake City airport provides no operational advantage to ATC.

Area M. The proposed modification to Area M is both a reduction to the east and an expansion to the north of the current Class B airspace area. Currently, IFR aircraft arriving from the north are held at 10,000 feet MSL until crossing the Class B boundary into Area M, at which time these aircraft must rapidly descend in order to arrive at the FANDS Intersection at 9,000 feet MSL, the normal altitude for transition to the ILS/DME Runway 16R approach. This action proposes an expansion of approximately two miles on the north side of the current Class B airspace area that would allow aircraft to make a more gradual descent to the FANDS Intersection.

The overall effect of these proposed changes is a net reduction in Salt Lake City Class B airspace area which would enhance the safe, efficient movement of both VFR and IFR aircraft into, out of, through, and around the Salt Lake Valley area.

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 effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect 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; (2) is not significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not impose a significant intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply. These analyses are summarized here in the preamble.

This regulatory evaluation analyzes the potential costs and benefits of the NPRM to amend part 71. This proposed action would modify the Salt Lake City Class B airspace area by reducing portions of Areas A and H, and by expanding part of Area M. These changes would provide GA aircraft enhanced accessibility to transition outside the Class B airspace area, and it would redefine the lateral boundaries along identifiable ground features.

The FAA has determined that the proposed modification of the Salt Lake City Class B airspace area would not result in any additional cost to either aircraft operators or the agency. This proposed action was prompted by a change in aircraft operations into and out of Salt Lake City International Airport, and it would enhance the Salt Lake City Airport Traffic Control Tower/Terminal Radar Approach Control capability to monitor and control IFR and VFR traffic in the Class B airspace.

This proposed action would provide benefits for systems users and the FAA by enhancing operational efficiency in the form of improving air traffic flow, and would not result in any reduction to aviation safety in the terminal area. The benefits of the proposed rule would stem from the creation of additional operating room for VFR traffic outside of the modified Salt Lake City Class B airspace area. The airspace modification proposed by this action would enhance aviation safety in the Salt Lake City Class B airspace area.

The FAA has determined that the implementation of the proposed rule would not impose any additional costs on either the agency or aircraft operators. This proposed rule would not impose any additional administrative costs for personnel, facilities, or equipment on the FAA. Another potential cost of this proposal is the cost associated with the revision of aeronautical charts to reflect the modified boundaries of the Salt Lake City Class B airspace area. The FAA has determined that these proposed modifications would be incorporated during routine charting cycles. The costs associated with printing aeronautical charts are a normal operating expense. Since the FAA requires the public to use only current charts, pilots would not incur any additional costs for obtaining revised Class B airspace charts.

The FAA has determined that aircraft operators would not incur any additional navigational or equipment costs, as a result of the reduction in Area A and Area H lateral boundaries, and expansion of Area M. The proposed modification of the controlled airspace would reduce the two lateral boundaries in subareas A and H. The reduction of the subareas would not impose any additional avionics equipment or circumnavigation costs. The expansion of Area M in the north would be insignificant in distance (2 to 6 NM); therefore, the alteration would not impose additional circumnavigation costs on operators. Overall, the Class B airspace area would be reduced in size.

The proposed rule would not impose any additional administrative costs on the FAA for personnel, facilities, or equipment. The proposed alteration of Areas A, H, and M would reduce the overall size of the Class B airspace area. This proposed action would decrease workload demands on current FAA personnel and equipment, and enhance aviation safety. The FAA maintains that changes proposed in this NPRM would allow ATC to concentrate current resources onto those subareas with greater activity and enhance safety and efficiency.

In view of the zero cost of compliance, combined with benefits of enhanced operational efficiency, the FAA has determined that this proposed rule would be cost-beneficial.

Initial Regulatory Flexibility Determination

Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities (small business and small not-for-profit government jurisdictions) are not unnecessarily and disproportionately burdened by Federal regulations. The RFA, which was amended May 1996, requires regulatory agencies to review rules that may have ''a significant economic impact on a substantial number of small entities.'' The Small Business Administration suggests that ''small'' represent the impacted entities with 1,500 or fewer employees.

Since this NPRM would only potentially affect those GA aircraft operators who fly under visual flight rules in accordance with 14 CFR, part 91 as individuals, rather than as small entities, no small entities would be impacted. For this reason, the FAA has determined that this NPRM would not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

International Trade Impact Assessment

The NPRM would neither constitute a barrier to international trade, for the export of American goods and services to foreign countries nor for the import of foreign goods and services into the United States. The NPRM would not impose costs on aircraft operators or aircraft manufacturers in the U.S. or foreign countries. The proposed modifications to the Salt Lake City Class B airspace would only affect GA aircraft utilizing U.S. VFR procedures.

Unfunded Mandates Assessment

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 of $100 million or more adjusted annually for inflation in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. 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.

Since this proposed rule would not impose any costs on either private or public entities, it does not contain neither a Federal intergovernmental nor private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

This proposed rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 3000—Subpart B—Class B Airspace

* * * * *

ANM UT B Salt Lake City, UT [REVISED]

Salt Lake City International Airport (Primary Airport)
(lat. 40°47′18″N, long. 111°58′40″W).
Salt Lake City International Airport Runway 17 ILS (I–BNT)
ILS/DME Antenna
(lat. 40°46′10″N, long. 111°57′44″W).

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at a point where the 13-mile arc of the Salt Lake City International Airport Runway 17 ILS (I–BNT) instrument landing system/distance measuring equipment (ILS/DME) antenna intercepts Interstate 15 (I–15), extending south on I–15 until intercepting the 11-mile arc of I–BNT ILS/DME antenna clockwise until intercepting the Union Pacific railroad tracks, extending southwest on the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until the point of beginning, excluding Areas C, D, K, and L described hereinafter.

Area B. That airspace extending upward from 7,600 feet MSL to and including 10,000 feet MSL between the 13-mile radius and the 25-mile radius of the I–BNT ILS/DME antenna, excluding that airspace south of the Union Pacific railroad tracks and that airspace east of where the 25-mile arc intercepts the Ogden-Hinckley Airport, UT, Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting U.S. Highway 89, extending south on U.S. Highway 89 until intercepting the 11-mile arc of the I–BNT ILS/DME antenna.

Area C. That airspace extending upward from 6,500 feet MSL to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts the Union Pacific railroad tracks extending southwest on the Union Pacific railroad tracks until intercepting the 13-mile arc of the I–BNT ILS/DME antenna clockwise until a point at lat. 40°46′30″N, long. 112°14′50″W, extending east to a bend on Interstate 80 (I–80) at lat. 40°46′30″N, long. 112°08′48″W, then southeast to the drive-in theater north of the city of Magna at lat. 40°43′00″N, long. 112°04′48″W, then southeast to the water tank at lat. 40°40′00″N, long. 112°03′33″W, extending southeast to a point at lat. 40°39′20″N, long. 112°02′33″W, extending south along long. 112°02′33″W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna then northwest on the 11-mile arc of the I–BNT ILS/DME antenna clockwise to the point of beginning.

Area D. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point at lat. 40°39′20″N, long. 112°02′33″W, extending east to a point at lat. 40°39′20″N, long. 111°58′13″W, extending south along long. 111°58′13″W, until intercepting the 11-mile arc of the I–BNT ILS/DME antenna, then counterclockwise until intercepting I–15, extending south on I–15 until intercepting a line at lat. 40°31′05″N, extending west on lat. 40°31′05″N, until a point at lat. 40°31′05″N, long. 112°00′33″W, then north along long. 112°02′33″W, to intercept the 11-mile arc of the I–BNT ILS/DME antenna at lat. 40°35′22″N, long. 112°00′33″W, then clockwise on the 11-mile arc of I–BNT ILS/DME antenna to long. 112°02′33″W, then to the point of beginning.

Area E. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where the 11-mile arc of the I–BNT ILS/DME antenna intercepts a line at long. 112°09′03″W, bounded on the west by long. 112°09′03″W, on the south by a line at lat. 40°31′05″N, to a point at lat. 40°31′05″N, long. 112°00′33″W, extending north to lat. 40°35′22″N, long. 112°00′33″W, then clockwise on the 11-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area F. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at lat. 40°31′05″N, intercepts I–15 extending west on lat. 40°31′05″N, to long. 112°00′33″W, then south on long. 112°00′33″W, to lat. 40°27′30″N, then east along lat. 40°27′30″N, to I–15, then north to the point of beginning.

Area G. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL beginning at the Bingham Copper Mine at lat. 40°31′05″N, long. 112°09′03″W, extending south to lat. 40°27′30″N, long. 112°09′03″W, then east to lat. 40°27′30″N, long. 112°00′33″W, then north to lat. 40°31′05″N, extending west to the point of beginning.

Area H. That airspace extending upward from 9,000 feet MSL to and including 10,000

feet MSL beginning at a point where a line at lat. 40°27′30″N intercepts the I–15 freeway, extending south along I–15 to lat. 40°23′30″N, extending west along lat. 40°23′30″N to long. 111°55′00″W thence south along 111°55′00″W until intercepting the 30-mile Mode C veil of the Salt Lake City International Airport, then clockwise along the 30-mile arc until intercepting long. 112°06′00″W then north along long. 112°06′00″W until intercepting lat. 40°23′30″N, extending west along lat. 40°23′30″N, until along long. 112°09′03″W, then north along long. 112°09′03″W until intercepting lat. 40°27′30″N extending east to the point of beginning, excluding that airspace contained in Restricted Areas R–6412A and R–6412B when active.

Area I. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where a line at long. 111°45′03″W, intercepts Interstate 84 (I–84), extending south on long. 111°45′03″W, until intercepting lat. 40°31′05″N, extending west until intercepting I–15, then north along I–15 until intercepting the Salt Lake City International Airport 4.3-mile arc, extending north along the Salt Lake City International Airport 4.3-mile arc until intercepting I–15, then north along I–15 until intercepting U.S. Highway 89, extending north along U.S. Highway 89 until intercepting the Ogden, Hill AFB, UT, Class D airspace area, then north along the Ogden, Hill AFB, UT, Class D airspace area until intercepting I–84, extending east along I–84 until the point of beginning, excluding that block of airspace east of Salt Lake City International Airport between lat. 40°52′16″N, and lat. 40°42′00″N.

Area J. That airspace extending upward from 7,800 feet MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME antenna intercepts the Ogden-Hinckley Airport, UT, Class D airspace area counterclockwise along the Ogden-Hinckley Airport, UT, Class D airspace area and the Ogden, Hill AFB, UT, Class D airspace area until intercepting the 25-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area K. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at a point on the 13-mile arc of the I–BNT ILS/DME antenna at lat. 40°46′30″N, long. 112°14′50″W, extending east to the bend on I–80 at lat. 40°46′30″N, long. 112°08′48″W, then north along long. 112°08′48″W, until intercepting the 13-mile arc of the I–BNT ILS/DME antenna, then counterclockwise along the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area L. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL west of I–15 bounded on the south by Cudahy Lane, on the west by Redwood Road until intercepting the Utah Power Transmission lines, extending northeast along the power transmission lines until intercepting the 13-mile arc of the I–BNT ILS/DME antenna to the point of beginning.

Area M. That airspace extending upward from 9,000 feet MSL to and including 10,000 feet MSL beginning at a point where the 25-mile arc of the I–BNT ILS/DME intersects Runway 34 at the Ogden Municipal Airport extending north along Runway 34 extended centerline until it intersects the I–15 freeway north of the Ogden Municipal Airport extending north along the I–15 freeway to the 30-mile Mode C veil of the Salt Lake City International Airport, thence counterclockwise along the 30-mile Mode C veil to long. 112°10′00″W, then south along long. 112°10′00″W to the 25-mile arc of the I–BNT ILS/DME, then clockwise along the 25-mile arc to the point of beginning.

* * * * *

Issued in Washington, DC, on July 29, 1998.

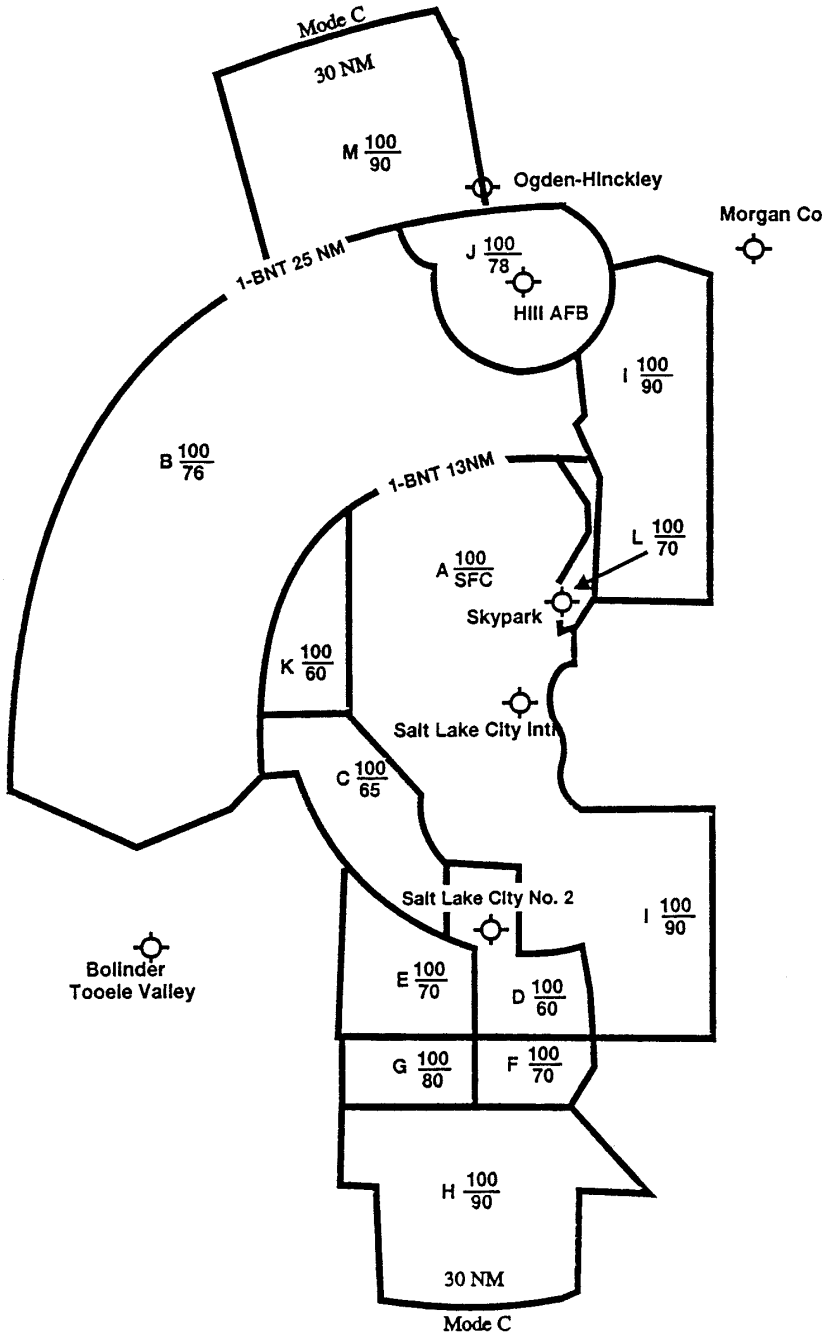
Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix—Salt Lake City, UT, Class B Airspace Area.

SALT LAKE CITY INTERNATIONAL AIRPORT
CLASS B AIRSPACE AREA
Field Elevation - 4227 feet
(Not to be used for navigation)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Publications Branch

[FR Doc. 98–20933 Filed 8–4–98; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–17]

Proposed Revision of Class E Airspace; Yakutat, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Yakutat, AK. The establishment of the Global Positioning System (GPS) instrument approaches to runway (RWY) 02, RWY 11, and RWY 29 at Yakutat, AK, has made this action necessary. Adoption of this proposal would result in the provision of adequate controlled airspace for Instrument Flight Rules (IFR) operations at Yakutat, AK.

DATES: Comments must be received on or before September 21, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 98–AAL–17, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AAL–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su__docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the Class E airspace at Yakutat, AK, through the establishment of GPS instrument approaches to RWY 02, RWY 11, and RWY 29. The area would be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Yakutat, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491; October 8, 1997). The Class E airspace designations listed in this document would be revised and published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, *Airspace*

Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is to be amended as follows:

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

* * * * *

AAL AK E5 Yakutat, AK

Yakutat Airport, AK
(lat. 59°30′12″ N., long. 139°9′38″ W.)
Yakutat VORTAC
(lat. 59°30′39″ N., long. 139°38′53″ W.)
Ocean Cape NDB
(lat. 59°32′37″ N., long. 139°43′41″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Yakutat Airport and within 4 miles northeast and 8 miles southwest of the 314° bearing from the Ocean Cape NDB extending from the NDB to 16 miles west of NDB and within 4 miles northeast and 8 miles southwest of the Yakutat VORTAC 148° radial extending from the VORTAC to 16 miles southeast of the VORTAC and within 8 miles south of the Yakutat VORTAC 299° radial extending from the VORTAC to 16 miles west of the VORTAC and within 4 miles east and 8 miles west of the Yakutat VORTAC 230° radial extending from 6 miles southwest of the VORTAC to 21 miles southwest of the VORTAC and within 3.4 miles north of the Yakutat Localizer back course extending from the 7-mile radius to 13.2 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 12.6 miles southwest and 8 miles northeast of the Yakutat VORTAC 138° and 318° radials extending from the VORTAC to 23.5 miles northwest and southeast of the VORTAC and within 5 miles each side of the 119° radial of the Yakutat VORTAC to 65 miles east of the VORTAC; and within 41 miles of the Yakutat VORTAC between the 118° radial clockwise to the 298° radial; excluding Control 1487L and the Gulf of Alaska Low Class E airspace areas.

* * * * *

Issued in Anchorage, AK, on July 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–20938 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–18]

Proposed Establishment of Class E Airspace; Atka, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Atka, AK. The establishment of a Global Positioning System (GPS) instrument approach at Atka, AK, has made this action necessary. The Atka Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result in the provision of adequate controlled airspace for IFR operations at Atka, AK.

DATES: Comments must be received on or before September 21, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 98–AAL–18, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AAL–18.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Federal Register's electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the Federal Register's web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su__docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Atka, AK, through the establishment of a GPS instrument approach to Atka,

AK. The Atka Airport status will be upgraded from VFR to IFR. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Atka, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491; October 8, 1997). The Class E airspace listed in this document would be published in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Atka, AK

Atka Airport, AK
(lat. 52°13′15″ N., long. 174°12′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Atka Airport; and that airspace extending upward from 1,200 feet above the surface within a 10-mile radius of the airport.

* * * * *

Issued in Anchorage, AK, on July 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–20936 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–16]

Proposed Establishment of Class E Airspace; Anaktuvuk Pass, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Anaktuvuk Pass, AK. The establishment of Global Positioning System (GPS) and Non-Directional Radio Beacon (NDB) instrument approaches at Anaktuvuk Pass, AK, have made this action necessary. The Anaktuvuk Pass Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result in the provision of adequate controlled airspace for IFR operations at Anaktuvuk Pass, AK.

DATES: Comments must be received on or before September 21, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 98–AAL–16, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL 538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; fax: (907) 271–2850; email: Robert.van.Haastert@faa.dot.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AAL–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic

bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su__docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Anaktuvuk Pass, AK, due to the establishment of GPS and NDB instrument approaches to Anaktuvuk Pass, AK. The Anaktuvuk Pass Airport status will be upgraded from VFR to IFR. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Anaktuvuk Pass, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491; October 8, 1997). The Class E airspace listed in this document would be published in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Anaktuvuk Pass, AK

Anaktuvuk Pass Airport, AK
(lat. 68° 08′04″ N., long. 151°44′30″ W.)
Anaktuvuk Pass VORTAC
(lat. 68°08′12″ N., long. 151°44′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Anaktuvuk Pass Airport and within 5 miles either side of the Anaktuvuk Pass NDB 240° bearing extending from the NDB to 7 miles southwest of the airport.

* * * * *

Issued in Anchorage, AK, on July 28, 1998.

Trent S. Cummings,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 98–20935 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–23]

Proposed Modification to the Gulf of Mexico Low Offshore Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Gulf of Mexico Low Offshore Airspace Area. Specifically, this action proposes to modify the Gulf of Mexico Low Offshore Airspace Area by extending the boundaries further south and southwest of the current location to the Houston Air Route Traffic Control Center [ARTCC] Flight Information Region/Control Area (FIR/CTA). This proposal would provide additional airspace in which domestic air traffic control procedures would be used to separate and manage aircraft operations. This proposed change would enhance the efficient utilization of that airspace.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 97–ASW–23, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed,

stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASW–23.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, redesignated certain control areas over international waters as offshore airspace areas. The redesignations were necessary to comply with the Airspace Reclassification final rule issued on December 17, 1991 (56 FR 65638).

One of the areas affected by the March 2, 1993, final rule was the Gulf of Mexico Control Area. This area was divided vertically into two areas, one of which was redesignated as the Gulf of Mexico Low Offshore Airspace Area.

In June 1996 the FAA completed an evaluation of the airspace over the Gulf of Mexico. The evaluation was a combined effort with representatives from the FAA, Servicios a la Navegacion en El Espacio Aereo Mexicano, and other airspace users. The objective of the evaluation was, in part, to identify areas where air traffic services, air traffic operations, and utilization of airspace could be improved. One conclusion of this evaluation was the determination that system capacity would be enhanced by modifying air traffic control (ATC) procedures used to control aircraft operations in the airspace over the Gulf of Mexico.

Currently, International Civil Aviation Organization (ICAO) oceanic ATC procedures are used to separate and manage aircraft operations that extend beyond the lateral boundary of the existing Gulf of Mexico Low Offshore Airspace Area. Modifying the Gulf of Mexico Low Offshore Airspace Area by extending the boundaries further south and southwest of the current location to the Houston ARTCC FIR/CTA, would allow the application of domestic ATC separation procedures over a larger area. This proposal to modify the offshore airspace area would enhance system capacity and allow for more efficient utilization of that airspace.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Gulf of Mexico Low Offshore Airspace Area, by extending the present airspace boundaries further south and southwest of the current location to the Houston ARTCC FIR/CTA. This proposed modification would allow the application of domestic ATC separation procedures, in lieu of ICAO separation procedures, which would enhance system capacity and allow for more efficient utilization of that airspace.

Offshore airspace area designations are published in paragraph 6007 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document would be published subsequently in the Order.

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

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6007—Offshore Airspace Areas

* * * * *

Gulf of Mexico Low [Revised]

That airspace extending upward from 1,200 feet MSL bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines; bounded on the south from east to west by the southern boundary of the Jacksonville Air Route Traffic Control Center, Miami Oceanic CTA/FIR, Merida UTA/UIR, Houston CTA/FIR; Monterrey UTA/UIR, Houston CTA/FIR; to the point of beginning.

* * * * *

Issued in Washington, DC, on July 29, 1998.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–20788 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 200, 207, 236, 266, 880, 881, 882, 883, 884, 886, 891, 965, 982, and 983

[Docket Nos. FR–4280–N–02 and FR–4321–N–02]

RIN Nos. 2501–AC45 and 2501–AC49

Notice of Re-Opening of Public Comment Periods on Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing and Uniform Financial Reporting Standards for HUD Housing Programs Proposed Rules

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rules; Notice of re-opening of public comment periods.

SUMMARY: On June 30, 1998, HUD published proposed rules that would establish uniform physical condition standards for housing assisted under certain HUD programs (FR–4280), and uniform annual financial reporting standards for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs (FR–4321). The public comment period on these proposed rules ended July 30, 1998. This notice re-opens the public comment period on these two proposed rules to August 13, 1998.

DATES: *Comment Due Date:* August 13, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding these proposed rules to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket numbers and titles. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center, Attention: William Thorson, Department of Housing and Urban Development, 4900 L'Enfant Plaza East, SW, Room 8204, Washington, DC 20410; telephone (202) 755–0102 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On June 30, 1998, HUD published proposed rules that would establish uniform physical condition standards for housing assisted under certain HUD programs (FR–4280, at 63 FR 35650), and uniform annual financial reporting standards for HUD's Public Housing, Section 8 housing, and multifamily insured housing programs (FR–4321, at 63 FR 35662).

The public comment period on these proposed rules ended July 30, 1998. A number of interested parties have requested additional time to submit their comments. Accordingly, the Department has decided to re-open the public comment period on these two proposed rules to August 13, 1998.

Dated: July 31, 1998.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 98–20948 Filed 7–31–98; 4:32 pm]

BILLING CODE 4210–33–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209682–94]

RIN 1545–AS39

Adjustments Following Sales of Partnership Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of time and location of public hearing, and extension of time to request to speak.

SUMMARY: This document changes the time and location of the public hearing and extends the date by which commentators should submit requests to speak on proposed regulations relating to the optional adjustments to the basis of partnership property following certain transfers of partnership interests under section 743, the calculation of gain or loss under section 751(a) following the sale or exchange of a partnership interest, the allocation of basis adjustments among partnership assets under section 755, the allocation of a partner's basis in its partnership interest to properties distributed to the partner by the partnership under section 732(c), and the computation of a partner's proportionate share of the adjusted basis of depreciable property (or depreciable real property) under section 1017. In addition, this document announces that persons wishing to testify who are outside the Washington, DC area will be able to make their presentations from a remote teleconference site in Los Angeles, CA.

DATES: The public hearing is being held on Thursday, September 10, 1998, beginning at 1 p.m. (EDT). Requests to speak and outlines of oral comments must be received by Thursday, August 27, 1998.

ADDRESSES: The public hearing will be held in room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The address of the remote teleconference site is listed below under Supplementary Information.

Requests to speak and outlines of oral comments should be mailed to Room 5226, 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–209682–94), Courier's Desk, 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-reg/comments.html.

FOR FURTHER INFORMATION CONTACT: LaNita VanDyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Thursday, January 29, 1998 (63 FR 4408), announced that a public hearing with respect to proposed regulations relating to adjustments to a partner's basis in its partnership interest and a partnership's basis in its assets would be held on Wednesday, July 8, 1998, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC, and that requests to speak and outlines of oral comments should be received by Wednesday, June 24, 1998.

The date and the time of the public hearing have changed. The room number of the Washington, DC location has changed, and one remote teleconference site has been added.

The hearing will be held in room 3411 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The remote teleconference site is in room 5003 of the Federal Building, 5th Floor, 300 N. Los Angeles Street, Los Angeles, California.

The public hearing will be begin at 1 p.m. (EDT); attendees will be admitted beyond the lobby of the Internal Revenue Building in Washington, DC after 12:30 p.m. The hearing time at the remote teleconference site in Los Angeles will be concurrent with the hearing in Washington, DC. (10 a.m. PDT).

Requests to speak and outlines of oral comments should be received by Thursday, August 27, 1998. All persons who have notified the Service by Thursday, August 27, 1998, of their desire to testify will be given the opportunity to do so. Requests should specify the site from which the speaker wishes to testify; if no specific site is named, the speaker will be scheduled to appear in Washington, DC. Requests to testify in Los Angeles should include a telephone number in case the Service needs to contact the speaker prior to the public hearing.

Due to limited seating capacity at the remote teleconference site, no more than 12 people may be accommodated at any one time in the teleconference room. Seating in the teleconference room will be made available based on the order of presentations. IRS personnel will be available at the remote teleconference site to assist speakers in using the teleconference equipment.

The Service will prepare an agenda showing the scheduling of speakers and will make copies of the agenda available free of charge at the hearing. Testimony will begin with the speakers in Los Angeles, and will conclude with presentations by the speakers in Washington, DC.

Cynthia Grigsby,

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

[FR Doc. 98–20941 Filed 8–4–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; notice of open meeting.

SUMMARY: The Occupational Safety and Health Administration announces a meeting of the Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee. OSHA invites all interested persons to attend. The committee members represent groups interested in, or significantly affected by, the outcome of the rulemaking. They include representatives of shipyards, labor unions, professional associations, and government agencies. The committee will continue its discussions on a proposed standard to protect workers from fire hazards in shipyard employment, including the following areas: scope and application; administrative, engineering, and work practice controls; fire brigades; written fire plans; technological advances; cost of fire protection; and the content of appendices. The committee's goal is to reach consensus on a draft proposed standard and explanatory preamble that it will recommend to OSHA.

DATES: The meeting will take place Wednesday, Thursday, and, if necessary Friday, September 9–11, 1998, from 8:00 a.m. to about 4:00 p.m. daily. Submit comments, requests for oral presentations, and requests for disability accommodations by August 20, 1998.

ADDRESSES: The meeting will be held at the Crowne Plaza, 151 Beach Blvd., Biloxi, Mississippi, telephone (601) 435–5400. Mail comments and requests for oral presentations to Mr. Joseph V. Daddura, U.S. Department of Labor, OSHA, Office of Maritime Standards, 200 Constitution Avenue, NW, Room N–3621, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph V. Daddura, Project Officer, Office of Maritime Standards, OSHA (202–219–7234, ext. 123). For disability accommodations, contact Ms. Theda Kenney (202–219–8061, ext. 100).

SUPPLEMENTARY INFORMATION:

Meeting Agenda

The committee will focus its discussions on definitions, paperwork burdens, costs and benefits, and the current draft of the recommendation. The committee will also discuss how a proposed rule could impact small employers.

Public Participation

Send written comments, data, views, or statements for the Committee's consideration to Mr. Joseph V. Daddura. You may also request the opportunity to make an oral presentation to the committee by providing Mr. Daddura with a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest you represent. The committee's facilitator will allow such presentations if there is adequate time in the meeting schedule.

Authority: This document is issued pursuant to the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 *et seq.*) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Signed at Washington, DC, this 30th day of July 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–20926 Filed 8–4–98; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 72 and 75

RIN 1219–AA74

Diesel Particulate Matter Exposure of Underground Coal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; extension of comment periods; notice of hearings; and close of record.

SUMMARY: MSHA is extending the period for public comment regarding the Agency's proposed rule addressing diesel particulate matter exposure of underground coal miners, which was published in the **Federal Register** on April 9, 1998; and the notice of preliminary determination of no significant environmental impact published in the **Federal Register** on July 14, 1998.

The Agency is also announcing that it will hold public hearings in Birmingham, Alabama; Salt Lake City, Utah; Mt. Vernon, Illinois; and Beckley, West Virginia. The hearing dates, times, and locations will be announced by a separate notice in the **Federal Register**.

The rulemaking record will remain open 30 days after the last public hearing.

DATES: Comments must be received on or before October 9, 1998.

ADDRESSES: Comments on the proposed rule may be transmitted by electronic mail, fax, or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address: comments@msha.gov. Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations, and Variances, 703–235–5551. Send mail comments to: MSHA, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203–1984 or any MSHA district or field office, and or technical support center. Copies of the proposal are available for review by the mining community at each district and field office location, and at each technical support center. The document is also available for loan to interested members of the public. These comments will become a part of the official rulemaking record. Interested persons are encouraged to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director; Office of Standards, Regulations, and Variances; MSHA; 703–235-1910.

SUPPLEMENTARY INFORMATION: On April 9, 1998, (63 FR 17492), MSHA published a proposed rule to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers. The best available evidence indicates that such high exposures put these miners at excess risk of a variety of adverse health effects, including lung cancer.

The proposed rule for underground coal mines would require that mine operators install and maintain high-efficiency filtration systems on certain types of diesel-powered equipment. Underground coal mine operators would also be required to train miners about the hazards of dpm exposure.

The comment period was scheduled to close on August 7, 1998. However, due to requests from the mining community, the Agency is extending the comment period for an additional 60 days, until October 9, 1998. MSHA believes that this extension will provide sufficient time for all interested parties to review and comment on the proposal. All interested parties are encouraged to submit comments prior to October 9, 1998.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), requires each Federal agency to consider the environmental effects of proposed actions and to prepare an Environmental Impact Statement on major actions significantly affecting the quality of the human environment. On July 14, 1998, (63 FR 37796), MSHA published a notice in the **Federal Register** that announced its preliminary determination that the proposed rule would have no significant environmental impact. The comment period was scheduled to close on August 10, 1998; however, by this notice, MSHA is extending the comment period until October 9, 1998.

Additionally, MSHA plans to hold the first public hearing within two weeks of the close of the comment period. The hearing dates, times, and locations will be announced by a separate notice in the **Federal Register**. The hearings will be held under section 101 of the Federal Mine Safety and Health Act of 1977.

To allow for the submission of post-hearing comments, the rulemaking record will remain open 30 days after the last public hearing. This date will also be announced by a separate notice in the **Federal Register**. This provides a total of more than 6 months from date of publication for the public to comment on this proposed rule.

Dated: July 30, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 98–20830 Filed 8–4–98; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–61–1–7376; FRL–6136–1]

Approval and Promulgation of State Implementation Plans (SIP) for Texas: Accelerated Vehicle Retirement (AVR) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed disapproval.

SUMMARY: A proposed disapproval of the Texas AVR program was published in the **Federal Register** (FR) on December 19, 1997 (62 FR 66576). The purpose of this action is to withdraw the proposed disapproval. The State has withdrawn the SIP submittal.

DATES: This withdrawal is effective August 5, 1998.

ADDRESSES: Copies of materials relevant to this document are available for public inspection during normal business hours at the following location. Persons interested in examining these materials should make an appointment at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 664–7367.

SUPPLEMENTARY INFORMATION:

I. Background

On October 31, 1994, Texas submitted a revision to the SIP to provide for a Vehicle Scrappage Program in Title 30 of the Texas Administrative Code, Chapter 114: Control of Air Pollution from Motor Vehicles. The program allowed for the scrappage of vehicles, calculating the credits, and applying the credits to stationary sources. The program was not approvable because the method of calculating the credits was not approvable. The method required actual measurements of vehicle mass emissions using the IM240 emissions test. This emissions test is not available to the public in the State because in 1995, the Legislature halted the first vehicle Inspection and Maintenance (I/M) program that used the IM240 test. That program was replaced in 1997, by a low enhanced emissions I/M test that does not measure mass emissions. Consequently, the emissions measured from that program are not quantifiable

according to the method in 30 TAC 114.200.

The EPA proposed disapproval of the AVR SIP revision on December 19, 1997, (62 FR 66576).

II. Comments on Proposed Disapproval

Five comments were received in response to the proposed disapproval. Four comments supported disapproval.

The Texas Natural Resource Conservation Commission commented that because the AVR submittal does not reflect current programs that are necessary to implement the scrappage program as designed, the State determined that Section 114.200 should be revised. The State intended to replace Section 114.200 with a new Section 114.200 in order to establish an AVR program that does not rely on the use of the IM240 test. The EPA agrees with Texas' plan to replace Section 114.200 with a new section if the State intends to implement a vehicle scrappage program.

The comment from the Lone Star Chapter of the Sierra Club raised issues of Environmental Justice (EJ) under Title VI of the Civil Rights Act. The Sierra Club supported the proposed disapproval and also used the comment period as an opportunity to discuss EJ as it relates to Vehicle Scrappage Programs. They protest the Texas SIP AVR Program for its inherent failure to comply with Title VI of the Civil Rights Act of 1964 which strictly prohibits discrimination on the basis of race, color, or national origin by any program receiving Federal financial assistance.

The EPA recognizes EJ as an issue that cannot and should not be ignored. For the purposes of this document, EJ and its relationship to vehicle scrappage will not be discussed because it is not germane considering the State's request to withdraw the AVR program as a revision to the SIP.

III. Withdrawal Action

On March 23, 1998, the Governor of Texas sent a letter to EPA requesting that the Texas AVR SIP revision be removed from the SIP process. These rules are neither required by the Clean Air Act, nor part of any rate of progress plans for the State.

In this action, EPA is withdrawing the proposed disapproval because the State withdrew the 1994 AVR SIP revision. The EPA is removing this submittal from the SIP process, and no further rulemaking action will take place with regard to the 1994 AVR SIP submittal.

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.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866, entitled ''Regulatory Planning Review.'' This withdrawal action 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.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action is a withdrawal of the proposed disapproval with no associated rulemaking. Therefore I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Volatile organic compounds.

Dated: July 24, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 98–20902 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 41

[FCC 98–152]

1998 Biennial Regulatory Review—Elimination of Part 41 Telegraph and Telephone Franks

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 21, 1998, the Federal Communications Commission released a Notice of Proposed Rulemaking (NPRM) that proposed to eliminate, in toto, part 41 (Telephone and Telegraph Franks) of the Commission's rules. The NPRM, part of the Commission's 1998 biennial regulatory review, tentatively concludes that the development of competition among interstate and foreign telecommunications service providers renders these regulations unnecessary.

DATES: Comments are due on or before August 31, 1998. Reply comments are due on or before September 10, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Suite 222, Washington, DC 20554, with a copy to Scott Bergmann of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, NW, Suite 500, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., NW, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Thomas J. Beers, Deputy Chief of the Industry Analysis Division, Common Carrier Bureau, at (202) 418–0952, or Scott K. Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking released July 21, 1998 (FCC 98–152). The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Summary of the Notice of Proposed Rulemaking

1. In the Notice of Proposed Rulemaking (NPRM) summarized here, we propose to eliminate, in toto, part 41 (Telegraph and Telephone Franks) of the Commission's rules.[1] Part 41 governs the issuance of franks for interstate and foreign telegraph and telephone service by communications common carriers.[2] Part 41 also governs

[1] 47 CFR 41.1 *et seq.*

[2] See 47 CFR 41.11. Part 41 was adopted pursuant to section 210(a) of the Communications Act of 1934, as amended. 47 USC 210(a). In pertinent part, section 210(a) provides:

Nothing in this Act or in any other provision of law shall be construed to prohibit common carriers from issuing or giving franks to, exchanging franks

Continued

the issuance of ''reports of positions of ships at sea furnished to newspapers of general circulation without charge, or at nominal charges, as authorized in section 201(b) of the Act.''[3] Part 41 requires carriers, inter alia, to retain records of these activities.

2. We undertake this examination of part 41 of our rules pursuant to our 1998 biennial review of regulations as required by section 11 of the Communications Act, as amended.[4] Section 11 requires us to review all of our regulations applicable to providers of telecommunications services and to determine whether any rule is no longer in the public interest as the result of meaningful economic competition between providers of telecommunications service. We seek, consistent with the Telecommunications Act of 1996, to strike a reasonable balance between our goal of reducing and eliminating regulatory requirements as competition supplants the need for such requirements, and our recognition that, until full competition is realized, certain safeguards may still be necessary. In this case, we tentatively conclude that the development of competition among interstate and international telecommunications service providers renders part 41 unnecessary and we propose to eliminate it.

II. Background

3. Part 41 of the Commission's rules governs the provision of franks and certain reports by communications common carriers pursuant to sections 210(a) and 201(b) of the Act. Franks enable authorized persons to send ''interstate or foreign telephone or telegraph'' messages, free of charge or at reduced rates, over communications facilities. Section 210 of the Act authorizes communications common carriers to issue franks and passes to other common carriers, including other communications common carriers, for the benefit of the officers, agents, and employees of the common carrier that receives the franks, and their families. As such, section 210(a) authorizes a per se class of lawful preferences that otherwise might be prohibited as unlawful pursuant to the terms of section 202(a).

4. Section 210(a) was adopted as part of the original Communications Act. As such, its origin was the Interstate Commerce Act of 1887, as amended.[5] By its own terms, section 210(a) states that the Commission may regulate the issuance of franks by common carriers subject to the Communications Act (referred to here as ''communications common carriers'') to common carriers not subject to the Communications Act. In contrast, section 210(a) does not specifically grant the Commission the authority to regulate the issuance of franks from communications common carriers to other communications common carriers or to themselves. In accordance with section 210(a), the Commission adopted rules, codified in part 41 of the Code of Federal Regulations, that govern the issuance of franks to common carriers not subject to the Communications Act, such as railroads. The rules were adopted and modified in a series of orders from the late 1930's and have been subject to only minor modifications since that time. Pursuant to these rules the Commission has capped the value of individual franks at $50 per year and imposed certain recordkeeping requirements on carriers issuing franks.

5. Section 41.31(c) of the Commission's rules implements section 201(b) of the Act allowing, but not requiring, common carriers to furnish reports of the positions of ships at sea to newspapers of general circulation. Section 201(b) provides that ''nothing in this Act or in any other provision of law shall prevent a common carrier subject to this Act from furnishing reports of positions of ships at sea to newspapers of general circulation, either at a nominal charge or without charge, provided the name of such common carrier is displayed along with such ship position reports.''

III. Discussion

6. As noted, section 11 of the Act directs the Commission to determine whether any regulation applicable to providers of telecommunications services ''is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.'' We seek comment as to whether our regulation of telephone and telegraph franking privileges and certain reports pursuant to part 41 of the rules continues to be in the public interest. For the reasons set out in the NPRM and summarized in the following paragraphs, we tentatively conclude that it does not, and we seek comment on our analysis and tentative conclusion that we should eliminate part 41 in its entirety.

7. Section 41.11 states that ''franks valid for interstate and foreign telegraph or telephone service may be issued or used and free service may be rendered only in accordance with * * *'' the provisions of part 41. Section 41.13 nevertheless goes on to exempt certain carriers, services, and persons from much of this regulation. These exemptions reflect the limitations imposed on Commission regulation of common carrier-issued franks and passes by the terms of section 210 of the Act. Thus, for example, section 210(a) does not, on its face, authorize the Commission to regulate the issuance of franks by communications common carriers regulated under the Communications Act to their own officers, agents, employees, and their families or to other communications common carriers. Section 41.13(c) of the rules generally exempts ''free or concession service now or hereafter granted to officers, agents, or employees of common carriers subject to the Act, and to their families.''

8. Other sections of part 41 impose specific limitations or requirements on carriers issuing franks to other carriers not regulated by the Act, and on persons receiving such franks. Thus, §§ 41.21 and 41.22, respectively, set a specific monetary limit or cap of $50 on the value of franks that can be issued to or used by any one person in a given year and prescribe particular requirements for issued franks. Section 41.31, inter alia, requires common carriers issuing lawful franks to maintain records of issued franks. These records must be maintained in connection with franks regulated pursuant to part 41 (§ 41.31(a)) and other franks which are specifically exempted from regulation pursuant to § 41.13 (§ 41.31(b)). In other words, regardless of whether certain carrier-issued franks are subject to the substantive limitations imposed by part 41, § 41.31 requires that communications common carriers maintain specified records for *all* issued franks, records which must be produced upon Commission demand. Finally, § 41.31(c) imposes a recordkeeping requirement on carriers who provide ''reports of positions of ships at sea to

with each other for the use of, their officers, agents, employees, and their families, or subject to such rules as the Commission may prescribe, from issuing, giving, or exchanging franks and passes to or with other common carriers not subject to the provisions of this Act, for the use of their officers, agents, employees, and their families.

47 USC 210(a). We will refer to the Communications Act of 1934, as amended, as ''the Communications Act'' or ''the Act.''

[3] 47 CFR 41.31(c); 47 USC § 201(b).

[4] 47 USC 161.

[5] 49 USC 10101 *et seq.*, 10722. In an explanatory statement entered in the Congressional Record, Representative Sam Rayburn indicated that section 210(a) is ''based upon section 1(7) of the Interstate Commerce Act.'' 78 Cong. Rec. 10313–10314. Rayburn further explained that the provision ''carries over existing law permitting communications companies to exchange franks for messages and to exchange such franks with railroads for passes.'' *Id.*

newspapers of general circulation, without charge, or at nominal charges'' pursuant to section 201(b) of the Act.

9. These rules, we tentatively conclude, reflect the regulation—and, derivatively, the market structure and competitive realities—of a bygone era and are long overdue for elimination. We believe they impose unnecessary burdens on competitive carriers operating in current interstate and international markets. We propose to eliminate these rules.

10. Early Commission decisions about carrier-issued franks reflect Commission concerns that franking privileges might be used for anticompetitive purposes and might be subject to ''excessive use.'' For example, following an investigation of the telegraph industry initiated in 1935, i.e., within a year of the enactment of the Communications Act, the Commission discovered that some telegraph carriers were issuing franks valued at hundreds of thousands of dollars.[6] Assessing this practice, the Commission observed:

> [W]e are convinced, that the issuance of franks and the giving away of free service by telegraph companies is used as a competitive measure; and that, as a competitive measure, it is subject to great abuse.[7]

The genesis of part 41 of the rules is this concern with carrier abuse of franking to achieve competitive advantage. This concern may very well have been valid in an era when telecommunications service markets were dominated by carrier monopolists and oligopolists. Indeed, in such an environment, anticompetitive abuses such as those described by the Commission in 1935 would eventually have ratepayer consequences as well. In other words, excessive issuance of franking privileges might have resulted in costs borne unfairly by ratepayers.

11. We need not, in the NPRM, recite in great detail just how the Commission's regulation has altered as interstate and international service competition has developed in the decades since 1935. In summary form, and driven in large part by technological developments since the Second World War, the Commission embarked on a course of regulation that both stimulated and reflected the development of competitive markets. For example, in a series of orders beginning in 1982, the Commission has sought to reduce or eliminate various regulatory burdens imposed on interexchange carriers who have been found to be nondominant. Such nondominant status has even been awarded to AT&T, with the result that all domestic interexchange service markets have now been found to be subject to competition. As a result, the Commission has stated its belief that market forces will generally ensure that the rates, practices, and classifications of nondominant interexchange carriers are just and reasonable and not unjustly or unreasonably discriminatory. In point of fact, almost all of the ''interstate and foreign telegraph or telephone'' services that are the subject of part 41 regulation per franks and reports are now provided in markets that the Commission has found to be competitive.

12. Because our part 41 rules were adopted at a very different time than the world of today, i.e., a time when firms providing interstate and foreign services faced a vastly different set of statutory, regulatory, economic, and operational barriers, we believe that franking regulation is no longer necessary. We believe that the discipline of competitive markets exists to restrict almost any conceivable misuse of the franking privilege, a privilege that is, we note, guaranteed by statute. It is our belief that most communications franks issued today are, in fact, concessions issued to the communications carrier's own employees, officers, or other personnel or are franks issued to other carriers regulated by the Act. Such franks are not, pursuant to the language of section 210(a), subject to this Commission's regulation in any event. We have, nevertheless, in § 41.31(b) of our rules, imposed carrier recordkeeping requirements in these cases. Such records are, we tentatively conclude, unnecessary to prevent anticompetitive conduct which in most, if not all cases, will be most effectively prevented by the operation of free market mechanisms. In the event that investigations by this Commission ever become necessary in such cases, we believe that we have ample authority under the Act to compel the production of carrier accounting records to assist such investigations. We further note that, for Class A and Class B telephone companies, such accounting records are kept pursuant to Commission rules and are subject at all times to the Commission's right of inspection. Taking into account all these considerations, we tentatively conclude that we may eliminate part 41 requirements as they apply to franks for interstate and international services as issued by common carriers regulated by the Act to common carriers regulated by the Act. We seek comment on this tentative conclusion.

13. Concerning section 201(b)-authorized ''reports of positions of ships at sea,'' we believe it unlikely that carriers would be able to gain an improper or unlawful competitive advantage were we to lift our § 43.31(c) recordkeeping requirement. Carriers issuing such reports exist in markets subject to the same current and developing competitive pressures described in the NPRM and as summarized *supra.* We see no reason to encumber these carriers—carriers who provide a valuable service specifically authorized by the Act—with special recordkeeping requirements and we find it unlikely that carriers are likely to abuse this provision. Accordingly, we tentatively conclude that we should eliminate § 43.31(c) of the rules, and we seek comment on this tentative conclusion.

14. In the NPRM, we tentatively conclude that no part 41 regulation is necessary and we accordingly propose to eliminate part 41, in toto. If any commenters consider that some form of regulation is required to govern the provision of franks and certain section 201(b) reports, we encourage them to suggest alternatives that are less burdensome than those currently set out in part 41. Such commenters, to the extent that they wish to retain part 41 regulation, should present a cost-benefit analysis addressing the costs of compliance, including direct costs and burdens on companies, regulators, customers and taxpayers, as well as any indirect costs. The statute affords the Commission wide discretion in determining the contours of the public interest. We also note that many costs and benefits of regulation may be difficult, if not impossible to quantify. As a general matter, however, we will not maintain a regulation pursuant to the section 11 public interest analysis where we determine that the costs of the regulation exceed the benefits. We seek comment on this approach. Overall, we seek comment on any and all analysis and conclusions contained in the NPRM.

IV. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

15. As required by the Regulatory Flexibility Act (RFA),[8] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA), summarized here, of the possible significant economic impact on small entities by

[6] *1935 Telegraph Franks Order,* 1 FCC 291, 295–296.

[7] *1935 Telegraph Franks Order,* 1 FCC 291, 295.

[8] See 5 USC 603. The RFA, see 5 USC 601 et. seq., has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on this NPRM provided above on the first page. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[9] In addition, this NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.[10]

16. *Need for, and Objectives of, the Proposed Action.* The Commission undertakes this examination of Part 41 [11] of its rules as a part of its 1998 biennial review of regulations as required by section 11 of the Communications Act, as amended.[12] Our objective is to reduce or eliminate unnecessary or duplicative regulatory requirements as competition supplants the need for such requirements, consistent with section 11 of the Communications Act, as amended,[13] and the Telecommunications Act of 1996.[14] The NPRM seeks comment as to whether the Commission's regulation of telephone and telegraph franking privileges and certain reports concerning ''ships at sea'' pursuant to part 41 of the rules continues to be in the public interest. The NPRM tentatively concludes that the development of competition among interstate and international telecommunications service providers renders Part 41 unnecessary and proposes to eliminate it, in toto.

17. *Legal Basis.* The legal basis for the action as proposed for this rulemaking is contained in sections 1, 4(i) and (j), 11, 201–205, 210, 218 and 403 of the Communications Act of 1934, as amended, 47 USC 151, 154(i) and (j), 161, 201–205, 210, 218, and 403.

18. *Description and Estimate of the Number of Small Entities to Which the Proposed Action May Apply.* Part 41 governs the issuance of franks (authorized pursuant to section 210 of the Act) and certain reports of ships at sea (authorized pursuant to section 201(b)) by all common carriers subject to the Communications Act of 1934, as amended. This NPRM asks commenters to address the extent to which communications common carriers currently utilize these statutory privileges—the issuance of franks and reduced cost reports on the positions of ships at sea—so that the Commission may determine the actual burden imposed by part 41 on these common carriers. In the absence of a more complete record, we note that the proposals set forth in this proceeding may have an economic impact on a substantial number of small telephone companies, i.e. all common carriers subject to the Act. The economic impact of these proposals would, of course, be a positive and beneficial impact, in the form of reduced regulatory burdens and recordkeeping requirements, for these common carriers.

19. To estimate the number of small entities that would benefit from this positive economic impact, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [15] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities.[16] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[17] The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.[18] We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

20. We expect that the rules in part 41—and the privileges regulated therein—have only been utilized by a limited class of entities, specifically the Bell Operating Companies and certain other providers of local exchange and interexchange telecommunications services. Nevertheless, given that the language of sections 201(b) and 210(a) speaks broadly of ''common carriers'' we analyze a wide range of categories in an effort to identify the greatest number of small entities possible that could be effected by the proposals in this NPRM. Thus, in some cases below, we expect that not all of the entities within a given category offer common carrier services, let alone issue franks or reports of ships at sea pursuant to part 41. In all cases, of course, entities affected by this proposal would not lose any of their statutorily-granted rights under sections 201(b) or 210(a) and would enjoy a positive economic impact from reduced regulation of those privileges.

21. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS).[19] According to data in the most recent report, there are 3,459 interstate carriers.[20] These carriers include, inter alia, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

22. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small ILECs. Out of an abundance of caution,

[9] See 5 USC 603(a).

[10] See *id.*

[11] 47 CFR 41.1 et seq.

[12] 47 USC 161.

[13] *Id.*

[14] Telecommunications Act of 1996, Pub. L. 104–104, 110 Stat. 56 (1996 Act), codified at 47 USC 151 et seq. See Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996) (Joint Explanatory Statement).

[15] 5 USC 601(6).

[16] 5 USC 601(3) (incorporating by reference the definition of ''small business concern'' in 5 USC 632). Pursuant to 5 USC 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register**.''

[17] 15 USC 632. See, e.g., *Brown Transport Truckload, Inc.* v. *Southern Wipers, Inc.*, 176 B.R. 82 (N.D. Ga. 1994).

[18] 13 CFR 121.201.

[19] FCC, *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997) (*Telecommunications Industry Revenue*).

[20] *Id.*

however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by the SBA as ''small business concerns.'' [21]

23. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[22] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' [23] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this NPRM.

24. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[24] According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.[25] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules recommended for adoption in this NPRM.

25. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).[26] According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services.[27] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,371 small entity LECs or small incumbent LECs that may be affected by the decisions and rules recommended for adoption in this NPRM.

26. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies.[28] The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 143 companies reported that they were engaged in the provision of interexchange services.[29] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the decisions and rules recommended for adoption in this NPRM.

27. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 109 companies reported that they were engaged in the provision of competitive access services.[30] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by the decisions and rules recommended for adoption in this NPRM.

28. *Operator Service Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 27 companies reported that they were engaged in the provision of operator services.[31] Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate

[21] See 13 CFR 121.201, SIC Code 4813.

[22] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size,* at Firm Size 1–123 (1995) (''1992 Census'').

[23] 15 USC 632(a)(1).

[24] 1992 Census, supra, at Firm Size 1–123.

[25] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4813.

[26] See 47 CFR 64.601 *et seq.*

[27] *Telecommunications Industry Revenue* at Fig. 2.

[28] 13 CFR 121.210, SIC Code 4813.

[29] *Telecommunications Industry Revenue* at Fig. 2.

[30] *Telecommunications Industry Revenue* at Fig. 2.

[31] *Telecommunications Industry Revenue* at Fig. 2.

that there are fewer than 27 small entity operator service providers that may be affected by the decisions and rules recommended for adoption in this NPRM.

29. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies.[32] The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 339 companies reported that they were engaged in the resale of telephone services.[33] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the decisions and rules recommended for adoption in this NPRM.

30. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.[34] According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.[35] The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules recommended for adoption in this NPRM.

31. *Cellular and Mobile Service Carriers.* In an effort to further refine our calculation of the number of radiotelephone companies affected by the rules adopted herein, we consider the categories of radiotelephone carriers, Cellular Service Carriers and Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies.[36] The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 804 companies reported that they are engaged in the provision of cellular services and 117 companies reported that they are engaged in the provision of mobile services.[37] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 804 small entity Cellular Service Carriers and fewer than 138 small entity Mobile Service Carriers that might be affected by the decisions and rules recommended for adoption in this NPRM.

32. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. See *Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap*, Report and Order, FCC 96–278, WT Docket No. 96–59, ¶¶ 57–60 (June 24, 1996), 61 FR 33859 (July 1, 1996); see also 47 CFR 24.720(b). For Block F, an additional classification for ''very small business'' was added, and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[38] These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by SBA.[39] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully, therefore there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licenses will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small PCS providers as defined by the SBA and the Commissioner's auction rules.

33. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. The definition of a ''small entity'' in the context of 800 MHz SMR has been approved by the SBA,[40] and approval for the 900 MHz SMR definition has been sought. The rules proposed in this NPRM may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how

[32] 13 CFR 121.210, SIC Code 4813.

[33] *Telecommunications Industry Revenue* at Fig. 2.

[34] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) (''1992 Census'').

[35] 13 CFR 121.201, SIC Code 4812.

[36] *Id.*

[37] *Telecommunications Industry Revenue* at Fig. 2.

[38] *Id.*, at ¶ 60.

[39] *Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, PP Docket No. 93–253, Fifth Report and Order, 9 FCC Rcd 5532, 5581–84 (1994).

[40] See *Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool*, PR Docket No. 89–583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693–702 (1995); *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band*, PR Docket No. 93–144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995).

many of these providers have annual revenues of less than $15 million. We assume, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, that may be affected by the decisions and rules recommended for adoption in this NPRM.

34. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees that may be affected by the decisions and rules proposed in this NPRM includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this IRFA, that all of the licenses may be awarded to small entities who may be affected by the decisions recommended for adoption in this NPRM.

35. *220 MHz Radio Services.* Because the Commission has not yet defined a small business with respect to 220 MHz services, we will utilize the SBA definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[41] With respect to 220 MHz services, the Commission has proposed a two-tiered definition of small business for purposes of auctions: (1) For Economic Area (EA) licensees, a firm with average annual gross revenues of not more than $6 million for the preceding three years and (2) for regional and nationwide licensees, a firm with average annual gross revenues of not more than $15 million for the preceding three years. Given that nearly all radiotelephone companies under the SBA definition employ no more than 1,500 employees (as noted supra), we will consider the approximately 1,500 incumbent licensees in this service as small businesses under the SBA definition.

36. *Private and Common Carrier Paging.* The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services.[42] Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[43] At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data.[44] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

37. *Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

38. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[45] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[46] We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[47] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

39. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[48] Accordingly, we will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.[49] There are approximately 100 licensees in the Air Ground Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

40. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.[50] These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need

[41] 13 CFR 121.201, SIC Code 4812.

[42] See 47 CFR 20.9(a)(1) (noting that private paging services may be treated as common carriage services).

[43] 13 CFR 121.201, SIC Code 4812.

[44] *Telecommunications Industry Revenue* at Figure 2.

[45] The service is defined in § 22.99 of the Commission's rules, 47 CFR 22.99.

[46] BETRS is defined in §§ 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757, 22.759.

[47] 13 CFR 121.201, SIC Code 4812.

[48] The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

[49] 13 CFR 121.201, SIC Code 4812.

[50] See 47 CFR 20.9(a)(2) (noting that certain Industrial/Business Pool service may be treated as common carriage service).

to be evaluated within its own business area.

41. The Commission is unable at this time to estimate the number of, if any, small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs [51] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

42. *Fixed Microwave Services.* Microwave services include common carrier,[52] private-operational fixed,[53] and broadcast auxiliary radio services.[54] At present, there are approximately 22,015 common carrier fixed licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons.[55] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

43. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[56] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small entities under the SBA's definition for radiotelephone communications.

44. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

45. *Description of Proposed Reporting, Recordkeeping, and Other Compliance Requirements.* The proposals under consideration in the NPRM would reduce the reporting and recordkeeping requirements on common carriers regulated under the Communications Act. Part 41 imposes specific limitations or requirements on carriers issuing franks to other carriers not regulated by the Act, and on persons receiving such franks.[57] For example, § 41.31(a) and (b), inter alia, require common carriers issuing lawful franks to maintain records of issued franks. Similarly, § 41.31(c) imposes a recordkeeping requirement on carriers who provide ''reports of positions of ships at sea to newspapers of general circulation, without charge, or at nominal charges'' pursuant to section 201(b) of the Act.[58] The NPRM proposes to eliminate part 41 which should provide a positive economic impact on affected companies, including small entities.

46. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The impact of this proceeding should be beneficial to small businesses because the proposals set out in the NPRM would reduce the reporting or recordkeeping requirements on all communications common carriers. As noted in the NPRM,[59] we seek comment on whether any level of regulation currently within Part 41 should be retained.

47. *Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule.* None.

B. Ex Parte Presentations

48. This proceeding will be treated as a ''permit-but-disclose'' proceedings subject to the ''permit-but-disclose'' requirements under § 1.1206 of the Commission's rules, as revised.[60] Additional rules pertaining to oral and written presentations are set forth in § 1.1206.[61]

C. Comment Filing Procedures

49. General. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties shall file comments not later than August 31, 1998, and reply comments not later than September 10, 1998. To file formally in this proceeding, you must file an original and six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and twelve copies. Comments and reply comments should be sent to the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554, with copies to: Thomas J. Beers, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, NW, Room 500, Washington, DC 20554; Scott K. Bergmann, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, NW, Room 500, Washington, DC 20554. Parties should file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., NW, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW, Room 239, Washington, DC 20554.

50. Other requirements. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules.[62] We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments.

51. Commenters may also file informal comments or an exact copy of formal comments electronically via the Internet at: <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>. Only one copy of electronically filed comments must be

[51] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994,* at 116.

[52] 47 CFR 101 et seq. (formerly, part 21 of the Commission's rules).

[53] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[54] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. See 47 CFR 74 et seq. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[55] 13 CFR 121.201, SIC Code 4812.

[56] This service is governed by subpart I of part 22 of the Commission's rules. See 47 CFR 22.1001–22.1037.

[57] See, e.g., 47 CFR 41.21, 41.22, 41.31, 41.32.

[58] 47 CFR 41.31(c) and citing 47 USC 201(b).

[59] See supra, ¶ 20.

[60] 47 CFR 1.1206.

[61] *Id.*

[62] See 47 CFR 1.49.

submitted. Commenters must note on the subject line whether an electronic submission is an exact copy of formal comments. Commenters also must include their full name and U.S. Postal Service mailing address in their submissions. Further information on the process of submitting comments electronically is available at that location and at <http://www.fcc.gov/e-file>.

52. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to: Ms. Terry Conway, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, NW, Room 500, Washington, DC 20554. Such diskettes should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–20819 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–135, RM–9300]

Radio Broadcasting Services; Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Russell L. Lindley, proposing the allotment of Channel 261A to Lufkin, Texas. The channel can be allotted to Lufkin at coordinates 31–16–13 and 94–43–50. There is a site restriction 8.5 kilometers (5.3 miles) south of the community.

DATES: Comments must be filed on or before September 21, 1998, and reply comments on or before October 6, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Howard J. Barr, Patricia M. Chuh, Lee G. Petro, Pepper & Corazzini, L.L.P., 1176 K Street, N.W., Suite 200, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–135, adopted July 22, 1998, and released July 31, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission'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 contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

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* contact.

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. 98–20818 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–138, RM–9309]

Radio Broadcasting Services; Whitehall, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Whitehall Broadcasting Company proposing the allotment of Channel 274A to Whitehall, Montana, as that community's first local broadcast service. The channel can be allotted to Whitehall with a site restriction 12.7 kilometers (7.9 miles) northwest of the community. The coordinates for Channel 274A are 45–56–11 and 112–13–51.

DATES: Comments must be filed on or before September 21, 1998, and reply comments on or before October 6, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo, Andrew S. Kersting, Fletcher, Heald & Hildreth, P.L.C., 1300 N. Seventeenth Street, 11th Floor, Arlington, Virginia 22209.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–138, adopted July 22, 1998, and released July 31, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission'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 contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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* contact.

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. 98–20815 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–140, RM–9294]

Radio Broadcasting Services; Pauls Valley, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Wright & Wright, Inc., seeking the allotment of Channel 283A to Pauls Valley, OK, as the community's first or second local FM service. Channel 283A can be allotted to Pauls Valley in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.9 kilometers (1.8 miles) southwest, at coordinates 34–43–06 North Latitude; 97–14–15 West Longitude, to avoid a short-spacing to Station KMGL, Channel 281C, Oklahoma City, OK.

DATES: Comments must be filed on or before September 21, 1998, and reply comments on or before October 6, 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: Roy Floyd, Vice-President, Wright & Wright, Inc., P.O. Box 248, Bonham, TX 75418 (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. 98–140, adopted July 22, 1998, and released July 31, 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. 98–20814 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–139; RM–9312]

Radio Broadcasting Services; King Salmon, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Zimin Broadcasting Corp. requesting the allotment of FM Channel 221A to King Salmon, Alaska, as that community's first local aural transmission service. Coordinates used for Channel 221A at King Salmon are 58–41–30 NL and 156–39–30 WL.

DATES: Comments must be filed on or before September 21, 1998, and reply comments on or before October 6, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John Wells King, Esq., Haley Bader & Potts, P.L.C., 4350 North Fairfax Dr., Suite 900, Arlington, VA 22203–1633.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–139, adopted July 22, 1998, and released July 31, 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.

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. 98–20813 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 391, 392, 393, 395, and 396

[FHWA Docket No. FHWA–97–2858]

RIN 2125–AE 22

Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle

AGENCY: Federal Highway Administration (FHWA); DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: The Federal Highway Administration is considering amending the Federal Motor Carrier Safety Regulations (FMCSRs) in response to the Transportation Equity Act for the 21st Century (hereinafter referred as ''TEA–21''). Section 4008(a) of TEA–21 amends the definition of the term ''commercial motor vehicle'' (CMV) in 49 U.S.C. 31132(1) to cover vehicles ''designed or used to transport more than 8 passengers (including the driver) for compensation.'' The change could make the FMCSRs applicable to a considerable number of entities, including operators of small commuter vans or airport shuttle buses, not now subject to them. This ANPRM requests comment and information to help the FHWA identify such operators and

determine whether the regulations should be applied to all of them or whether exemptions should be granted.

DATES: Comments must be received on or before October 5, 1998.

ADDRESSES: Submit written, signed comments to FHWA Docket No. FHWA–97–2858, the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lehrman, Office of Motor Carrier Research and Standards, (202) 366–0994, Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

Background

Section 204 of the Motor Carrier Safety Act of 1984 (MCSA) (Pub. L. 98–554, Title II, 98 Stat. 2832, at 2833) defined a ''commercial motor vehicle'' as one having a gross vehicle weight rating (GVWR) of 10,001 pounds or more; designed to transport more than 15 passengers, including the driver; or transporting hazardous materials in quantities requiring the vehicle to be placarded. This definition, codified at 49 U.S.C. 31132(1), was the basis for the regulatory definition of a CMV in 49 CFR 390.5, which determines the jurisdictional limits and applicability of most of the FMCSRs. The Senate Committee on Commerce, Science and Transportation, in a report which accompanied the MCSA stated: ''The 10,000-pound limit, which is in the current BMCS (Bureau of Motor Carrier Safety, now the FHWA's Office of Motor Carriers) regulations, is proposed to focus enforcement efforts and because small vans and pickup trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures.'' S. Rep. No. 98–424, at 6–7 (1984), *reprinted in* 1984 U.S.C.C.A.N. 4785, 4790–91.

Although the MCSA demonstrated congressional intent to focus the applicability of the FMCSRs on larger vehicles, Congress did not repeal Sec. 204 of the Motor Carrier Act of 1935 (Chapter 498, 49 Stat. 543, 546). This statute, now codified at 49 U.S.C. 31502, authorizes the FHWA to regulate the safety of all for-hire motor carriers of passengers and property, and private carriers of property without respect to the weight or passenger capacity of the vehicles they operate.

When the Congress enacted the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 99–570, Title XII, 100 Stat. 3207–170) to require implementation of a single, classified commercial driver's license program, it also limited the motor vehicles subject to the program to those designed to transport more than 15 passengers, including the driver (now codified at 49 U.S.C. 31301(4)(B) with slightly different wording). This, too, revealed the congressional policy of applying available Federal motor carrier safety resources to larger vehicles.

The ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, 919) changed the MCSA definition of a commercial motor vehicle. As amended, section 31132(1) defined a commercial motor vehicle, in part, as a vehicle that is ''designed or used to transport passengers for compensation, but exclud(es) vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; (or) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.'' The ICCTA authorized, but did not require, the FHWA to change the FMCSRs accordingly; the agency did not incorporate the amended language into the CMV definition in § 390.5.

Section 4008(a)(2) of TEA–21 (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) again amended the passenger-vehicle component of the CMV definition in 49 U.S.C. 31132(1).

Commercial motor vehicle is now defined to mean a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) Has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) Is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

Under Sec. 4008(b), operators of the CMVs defined by section 31132(1)(B) will automatically become subject to the FMCSRs one year after the date of enactment of TEA–21, if they are not already covered, ''except to the extent that the Secretary (of Transportation) determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''

The FHWA views section 4008 of TEA–21 as a mandate to impose the FMCSRs on previously unregulated smaller capacity vehicles. Although the House Conference Report on the ICCTA definitional change directed the agency not to impose on the States (as grant conditions under the Motor Carrier Safety Assistance Program (MCSAP)) the burden of regulating a new population of carriers covered by the definition, no such restriction is included in TEA–21 or its legislative history. The mandate of TEA–21 is thus stricter than that of the ICCTA. Still, the FHWA is authorized to undertake rulemaking to exempt some of these passenger vehicles from the FMCSRs. One of the purposes of this ANPRM is to ask for information about the potential reach of the TEA-21 definition and comments on the question whether any class of vehicles should be exempted. We would also like to determine whether the term ''for compensation'' may be interpreted to distinguish among the types of van services currently in existence (see question 6 below).

Request for Comments

The purpose of this ANPRM is to gather information from a broad

spectrum of commenters. While some of the questions are intended for specific audiences, all interested parties are encouraged to answer any of the questions posed. In addition, commenters should include a discussion of any other issues that they believe are relevant to this rulemaking.

1. What types and numbers of passenger carriers that are not currently subject to Federal regulation would be covered by the FMCSRs when the new TEA–21 definition of a CMV becomes effective? For example, are there day care centers or senior citizen facilities/communities utilizing for-hire contractors in interstate commerce? How many car or van pools would be subject to the regulations?

2. What would be the safety benefits of applying the FMCSRs to all interstate operations of for-hire vehicles with a seated passenger capacity of more than 8 passengers (including the driver), as in the TEA–21 definition? Please provide data and information to support your position.

3. What would be the economic impact—positive or negative—of extending the applicability of the FMCSRs to businesses engaged in the interstate operation of vehicles designed or used to transport 9–15 passengers? Keep in mind that the FMCSRs include driver qualifications, medical qualifications, hours of service limits, and vehicle requirements (including inspection, repair and maintenance provisions). Would complying with the FMCSRs impact on current daily business operations and procedures?

4. With the exception of FHWA recordkeeping requirements (e.g., driver qualification files, medical reports, records of duty status, etc.), what provisions of the FMCSRs are not currently met by businesses operating small capacity passenger vehicles in interstate commerce? For example, do these businesses, as a matter of good operating practice, require their drivers periodically to undergo a physical examination? Are there limits to the number of hours that a driver may operate a vehicle? Is there a systematic inspection, repair and maintenance program in place for the vehicles?

5. What would be the incremental cost (if any) of complying with the non-recordkeeping provisions of the FMCSRs for interstate operators of small capacity passenger vehicles?

6. Should the FHWA require States receiving MCSAP funds to make the State equivalents of the FMCSRs applicable to for-hire carriers operating passenger vehicles with a capacity of 9–15 in intrastate commerce? Some States may wish to enforce the revised TEA–21 definition on businesses operating those vehicles either in interstate or intrastate commerce, or both. The FHWA requests each State to indicate whether it already regulates this class of vehicles or whether it would adopt the new TEA–21 definition voluntarily. We recognize that many State MCSAP agencies would need additional legislative authority to adopt the new definition; we are simply asking for their best guess as to the reaction of their legislatures to such a proposition.

An issue which requires clarification is the meaning of ''for compensation.'' If a hotel offers an airport shuttle service to its paying guests, yet passes the cost of such service on to the guest without itemizing it on the bill, is that transportation ''for compensation?'' If a van-pool requires each passenger to contribute his/her proportionate share of expenses, is that transportation ''for compensation?'' States, other governmental entities, and any interested parties are invited to offer their comments regarding an appropriate application of ''for compensation.''

7. How would States likely to adopt the new TEA–21 definition enforce it? For example, would the State restrict enforcement to roadside inspections of the vehicles and drivers? Would more personnel be required?

8. For State agencies and industry associations that have statistics on the use of vehicles designed or used to transport between 9 and 15 passengers in interstate commerce, approximately how many additional businesses would be subject to the FMCSRs or State equivalent under the amended statutory definition of a CMV? How many drivers are employed by these businesses and how many vehicles are operated by them?

9. In light of the fact that TEA–21 provides the FHWA with explicit direction to apply the FMCSRs to smaller capacity passenger vehicles designed ''or used'' to carry passengers, what effect do you foresee if the FHWA's current regulatory definition at § 390.5 were so changed? (Use the above questions as a reference when evaluating the impact.)

All commenters are asked to provide information, data, and recommendations, based upon their own experience with transportation issues, to assist the FHWA in evaluating the potential safety benefits and the costs of implementing the CMV definition enacted by TEA–21. The FHWA especially encourages the submission of accident data on small passenger vehicles. Since Department of Transportation statistics do not distinguish between private and commercial light weight vehicles, such data would be useful if available.

Rulemaking Analyses

All comments received before the close of business on the comment closing due date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

In this rulemaking, the FHWA is considering changes to the definition of a commercial motor vehicle which would extend the FMCSRs to vehicles designed or used to carry more than 8 passengers (including the driver), for compensation in interstate compensation as mandated by the TEA–21. The regulatory action under consideration is significant under Executive Order 12866 and significant under the regulatory policies and procedures of the Department of Transportation because of the substantial public interest anticipated if the agency expands the applicability of the FMCSRs to an expanded population of regulated commercial motor vehicles as in the previously cited instances. The potential economic impact of expanding the applicability of the FMCSRs is not known at this time. Therefore, a full regulatory evaluation has not yet been prepared. The agency intends to use the information collected from comments to this docket to determine whether a notice of proposed rulemaking should be developed, and, if necessary, a full regulatory evaluation.

Regulatory Flexibility Act

Due to the preliminary nature of this document and the lack of necessary information on costs, the FHWA is unable at this time to evaluate the effects of the potential regulatory changes on small entities. The FHWA solicits comments, information, and data on these potential impacts.

Unfunded Mandates Reform Act

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by state, local, and tribal governments, in the aggregate,

or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action will be analyzed in accordance with the principles and criteria contained in Executive Order 12612 to determine if this action has sufficient federalism implications to warrant the preparation of a federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action, if taken beyond the ANPRM stage, would in all likelihood impact existing collection of information requirements for the purposes of the Paperwork Reduction Act of 1995 (49 U.S.C. 3501–3520). Office of Management and Budget (OMB) reviews and approvals would be required if regulatory changes were proposed and promulgated

National Environmental Policy Act

The agency will analyze this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) to determine whether would have any effect on the quality of the environment.

Regulation Identification Number

A regulatory identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 390

Highway safety, Highways and roads, Motor carriers, Motor vehicle identification and marking, Reporting and record keeping requirements.

49 CFR Part 391

Highways and roads, Motor carriers—driver qualifications, Motor vehicle safety, Reporting and record keeping requirements.

49 CFR Part 392

Highway safety, Highways and roads, Motor carriers—driving practices.

49 CFR Part 393

Highways and roads, Motor carriers, Motor vehicle equipment, Motor vehicle safety.

49 CFR Part 395

Global positioning systems, Highways and roads, Highway safety, Motor carriers—driver hours of service.

49 CFR Part 396

Highways and roads, Motor carriers, Motor vehicle maintenance, Motor vehicle safety.

(49 U.S.C. 31132, 31136, and 31502; and 49 CFR 1.48)

Issued: July 27, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–20920 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. FHWA–98–3542]

RIN 2125–AC63

Physical Qualification of Drivers; Medical Examination; Certificate

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is seeking comments on a proposal to amend its regulation governing the examination to determine the physical condition of drivers. The FHWA takes this action in response to numerous requests from medical examiners to update and simplify the medical examination form that is currently used. This proposed action is intended to reduce the incidence of errors on such forms and to provide more uniform medical examinations of commercial motor vehicle (CMV) drivers under the Federal Motor Carrier Safety Regulations (FMCSRs). The current Federal physical qualification standards tested by medical examiners and recorded on the form would not be revised in this rulemaking. The FHWA is seeking comments on the proposed form.

DATES: Written comments addressing this rule must be received on or before November 3, 1998.

ADDRESSES: Your signed, written comments must refer to the docket number appearing at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandra Zywokarte, (202) 366–1790, Office of Motor Carrier Standards, for information regarding the rulemaking, or Ms. Judith A. Rutledge, (202) 366–0834, Motor Carrier Law Division, Office of the Chief Counsel, for information regarding legal issues. Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202)512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

Background

The authority to require medical certification of CMV driver qualification was originally granted to the Interstate Commerce Commission (ICC) in the Motor Carrier Act of 1935. The authority was transferred to the DOT in 1966 and is currently codified at 49 U.S.C. 31502(b).

The importance of physical qualification of commercial drivers was recognized in 1939 when the first regulatory medical standard was established by the ICC. Those

regulations, published June 7, 1939, required a driver to possess the following minimum qualifications:

> Good physical and mental health; good eyesight; adequate hearing; no addiction to narcotic drugs; and no excessive use of alcoholic beverages or liquors.

The first change to this standard was initiated in 1952 and went into effect on January 1, 1954. The Certificate of Physical Evaluation required under the 1954 rule was slightly more specific than the 1939 regulation, and also required a physical examination form and a doctor's certificate. A second revision made in 1964 amended the standard to allow limb-amputee and limb-impaired drivers, who were otherwise eligible, to become medically qualified through a waiver program. On April 22, 1970, (35 FR 6458) in light of discussions with the FHWA's medical advisors, the existing physical qualification requirements were substantially tightened by including guidelines for evaluation of persons in high-risk medical categories. This rule also provided that the examining physician be given full information about the responsibilities of and the exacting demands made on commercial drivers. There have been no major changes since then.

Current Medical Examination Form

The current form was adopted by the DOT in 1970, recodified in 49 CFR part 391, and has undergone no changes since that time. The physical qualification regulations for drivers in interstate commerce are found at 49 CFR 391.41. Section 391.43 contains instructions to medical examiners for performing physical examinations and recording their findings.

The FHWA has received numerous verbal and written requests from physicians and other medical providers who perform physical examinations of CMV drivers engaged in interstate commerce to make changes to the medical form currently used under § 391.43(e). Medical practitioners have indicated that the format, layout and content of the current form are outdated, difficult to use and contain irrelevancies. For example, the health history section of the form asks about a history of fits, syphilis and gonorrhea, and nervous stomach. Such inquiries reflect outdated terminology, are vague, or are not relative to a driver's ability to operate a CMV safely. Others have suggested that the form is not adaptable to current trends in documentation such as electronic documentation. Given these comments, the FHWA has decided to initiate this proposed rulemaking action.

Over the past two decades there have been substantial changes in medical technology and the technology, operating practices and economics of the motor carrier industry. These changes have affected the lifestyles of and, therefore, the physical and mental demands placed on CMV drivers. The FHWA agrees that the current form is outdated and its continued use problematic.

Methods and Considerations for Developing a Revised Medical Examination Form

The FHWA contracted with the Association for the Advancement of Automotive Medicine (AAAM) to review and evaluate the current form, and to help develop a revised form. In order to assure that the revised form would reflect the most current medical concepts and be responsive to the needs of the groups using the forms such as the medical community and the trucking industry, the AAAM convened a working group to review the draft form. This group included two occupational health physicians, a motor carrier and Federal and State government representatives. A second draft of the form was then submitted for additional review by a correspondence review group made up of medical providers, State agency representatives, motor carriers, FHWA field staff, and other interested groups.

The form revision process was defined and limited by several norms. The underlying physical qualification standards tested by medical providers and recorded on the form would not be revised in this rulemaking. In addition, the instructions for performing and recording physical examinations found in 49 CFR 391.43 would be revised only to the extent necessary to ensure that instructions to medical examiners are understandable and consistent with the information provided on the proposed medical examination form and guidance materials established by the FHWA for medical examiners.

Proposed Medical Examination Form

The proposed form, modeled on physical examination forms in use today, has been organized to gain simplicity and efficiency, to reflect current medical terminology and examination components and to be a self-contained document; that is, the proposed form will, to the extent possible, include all relevant information necessary to conduct the physical examination and certification. The FHWA believes its proposed revision to the form will enhance the accuracy and efficiency of the commercial driver physical qualification process.

Consistent with accepted practices regarding the order of the examination, the first section of the proposed form would be completed by the driver. This section requests information on the driver's health history, seeking ''yes'' or ''no'' answers to a variety of medical condition questions. Any ''yes'' response would require further clarification by the driver. Once the form is completed, the driver would be required to sign it, affirming that all the information contained therein is accurate and complete. An additional statement indicates that inaccurate, false, or missing information may invalidate both the examination and any Medical Examiner's Certificate issued thereon. A result of such invalidation could include revocation of the driver's commercial license by the issuing State. The FHWA believes that the proposed addition of a driver certification requirement would discourage drivers from omitting or falsifying medical information and thereby would ensure the accuracy and completeness of the medical form and strengthen the overall certification process.

The second section of the proposed form covers the physical examination and tests performed by the medical examiner. The medical examiner is provided with information on both the relevant Federal physical qualification standards and the tests required to measure compliance with those standards. The Federal standards and guidelines for evaluation of a driver's vision, hearing, and blood pressure are included in this section of the proposed form, thereby reducing the potential for errors by the medical examiner. Missing or inconsistent information on the examination form has been a problem according to anecdotal information provided by the motor carrier industry and other users of the form, and according to information obtained from six pilot demonstration programs to verify the six States' ability to merge the medical process with the CDL licensing process. [1]

[1] The pilot projects were completed in January 1995, and a final report (see docket, FHWA–97–2210) was submitted to the FHWA. On July 23, 1996, the FHWA announced (61 FR 38133) the first meeting of a negotiated rulemaking advisory committee under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to consider the relevant issues and attempt to reach a consensus in developing regulations governing the proposed merger of the State-administered commercial driver's license procedures and the Federal driver physical qualification requirements. For complete information on the six pilot projects and the

Unlike the current physical examination form, the proposed form clearly indicates when numerical readings must be recorded. Moreover, since the physical qualification regulations do not indicate acceptable laboratory values for the presence of protein, blood or sugar in the urine, the proposed form places the medical examiner on notice that the presence of these substances in the urine may be an indication for further testing to rule out an underlying medical condition that may be disqualifying. Space is also provided for optional tests, such as an electrocardiogram (ECG), an echocardiogram, an exercise stress test (EST) or a chest x-ray. In addition, a complete physical examination must be performed for each driver.

Although the ECG and EST are considered optional, the FHWA is proposing specific recommendations for a baseline ECG at age 40, then every six years until age 55, and then every two years. In this proposal, the FHWA also recommends that an EST be given to asymptomatic individuals who are 45 years old or older and who either exhibit two or more cardiac risk factors or have a history of ischemic heart disease. These recommendations were developed during a 2-day conference on cardiac disorders and commercial drivers at the American College of Cardiology in Bethesda, Maryland in 1986. The conference was convened to assist the FHWA in developing a systematic and scientific basis for updating the cardiac standards for commercial drivers. The final report published in 1988 provided very specific recommendations for qualifying drivers with cardiovascular conditions and for screening drivers for cardiac risk factors. This cardiac conference guidance has been extensively peer reviewed and is being updated as necessary. A copy of this cardiac conference guidance is contained in the docket for public inspection.

A full page of the proposed form is devoted to instruction and recordation of the medical examiner's findings. The medical certificate is also provided, and must be completed by the medical examiner if he or she finds that the driver meets all the Federal physical qualification requirements.

The third section of the proposed form not only sets forth the Federal physical qualification standards found at 49 CFR 391.41, but also contains more detailed information for the medical examiner regarding the driver's role and the types of duties he or she may face as a result of his or her employment. The FHWA believes that this information is valuable to the medical examiner in making a determination of physical qualification, and that such information may not have been provided to medical examiners in the past because it was not included on the current medical examination form. This section also contains the FHWA's guidelines to help medical examiners assess a driver's physical qualification. These guidelines are strictly advisory and were established by the FHWA after consultation with physicians, States, and industry representatives.

In addition to the revisions to 49 CFR 391.43 proposed in this NPRM, the FHWA is making technical corrections to paragraphs (d) and (g) of that section.

The FHWA's primary concern is to enhance safety on the Nation's highways, not to unnecessarily limit the employment opportunities of individuals with physical impairments. To the fullest extent possible, consistent with its safety mandate and regulations, the FHWA is interested in promoting individual determinations of medical qualification to operate a CMV. The intent of this proposal is to facilitate medical providers' efforts to establish, and document in a clear and understandable way, the physical qualification of a driver to operate a CMV.

Consequently, the FHWA requests comments from individuals, medical providers, motor carriers, and all other interested parties on the proposed medical examination form. The information should include, but need not be limited to, information on how to improve the proposed examination form and instructions for performing and recording physical examinations.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to the late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that the proposed action, if implemented, would not be a significant regulatory action under Executive Order 12866 or significant under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this proposed rule would be minimal because the use of existing printed supplies of the forms addressed in this action will be allowed until the forms are depleted, or until 12 months after the date of publication of this rulemaking in the **Federal Register**, whichever occurs first. Allowing the use of existing forms would avert substantial monetary loss by motor carriers, medical providers, and vendors of forms that might otherwise result from this rulemaking. Moreover, the proposed action would facilitate regulatory uniformity and result in easier compliance with and enforcement of the driver qualification requirements of the FMCSRs. The proposed form would, to the extent possible, include all relevant information necessary to establish and record the physical qualification of a driver to operate a CMV. As a result, the FHWA believes that this rulemaking would have a positive economic impact. That is, time and cost burdens on truck and bus companies would not increase and, indeed, such burdens on medical examiners could actually decrease. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, the FHWA is evaluating the effects of this proposal on small entities. The FHWA believes that this proposed action, if implemented, would not have a significant economic impact on a substantial number of small entities or the nation's economy because it would allow individual small carriers, medical providers and vendors of the form to use the forms they now have on hand until those supplies have been depleted, or until 12 months after the date of publication of this rulemaking in the **Federal Register**. To the extent that the proposed revised form would facilitate compliance with driver qualification requirements, the projected positive economic impact is not expected to be sufficiently significant to warrant a full regulatory evaluation. The FHWA intends to further evaluate the economic consequences of this proposal on small entities, however, in light of the

negotiated rulemaking advisory committee proceedings, see 59 FR 36338 (July 15,1994) and 61 FR 18713 (April 29, 1996).

comments received in response to this notice of proposed rulemaking.

Unfunded Mandates Reform Act of 1995

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This proposed rulemaking, if promulgated, would amend Part 391 of the FMCSRs (Title 49, Code of Federal Regulations) pertaining to the physical qualification and examination of drivers. This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Nothing in this proposal would preempt any State law or regulation. This proposal would not limit the policy making discretion of the States. Therefore, the FHWA has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a separate Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this action will not have any effect on the quality of the environment.

Paperwork Reduction Act

The information collection requirements that would be imposed as a result of this rulemaking are being submitted to the OMB for approval in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. This rulemaking proposes a revision of a form used to collect medical information about drivers of commercial motor vehicles (CMVs).

Title: Medical Qualifications Requirements.

Affected Public: Approximately 400,000 motor carriers and 500,000 medical examiners.

Abstract: Medical examiners are required to perform examinations of CMV drivers who operate in interstate commerce. The results must be recorded substantially in accordance with the instructions and the form found at 49 CFR 391.43. Medical examiners are also required to fill out a medical certificate upon completing an examination. The certificate affirms that the driver is medically qualified to drive a CMV in interstate commerce.

Under 49 CFR 391.51 and 398.3, motor carriers are required to retain the medical examiner's certificate in the driver's qualification file for 3 years.

Need: To ensure that only physically qualified CMV drivers operate in interstate commerce.

Requested Time Period of Approval: The information collection for this item, OMB Control Number, 2125–0080, was last approved by OMB on September 2, 1997. It is valid through September 30, 2000.

Estimated Annual Burden: Based on an estimate of 5,500,000 interstate CMV drivers, the annual time burden upon medical examiners and motor carriers for examinations and recordkeeping would be approximately 412,500 hours. This is a decrease of 46,605 hours from the burden under the previous form.

Comments are invited on any aspect of the proposed collection of information, including but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Driver qualifications—physical examinations, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

Issued: July 29, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, CFR, chapter III, part 391 as follows:

PART 391—QUALIFICATIONS OF DRIVERS [REVISED]

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

2. Section 391.43 is amended in paragraphs (d), (f), (g), and (h), to read as follows:

§ 391.43 Medical examination; certificate of physical qualification.

* * * * *

(d) Any driver authorized to operate a commercial motor vehicle within an exempt intracity zone pursuant to § 391.62 of this part shall furnish the examining medical examiner with a copy of the medical findings that led to the issuance of the first certificate of medical examination which allowed the driver to operate a commercial motor vehicle wholly within an exempt intracity zone.

(e) * * *

(f) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form. Existing forms may be used until current printed supplies are depleted or until (Insert date 12 months after the date of publication in the **Federal Register**), whichever occurs first.

INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The medical examiner must be familiar with 49 CFR 391.41, Physical qualifications for drivers, and should review these instructions before performing the physical examination. Answer each question ''yes'' or ''no'' and record numerical readings where indicated on the physical examination form.

The medical examiner must be aware of the rigorous physical, mental, and emotional demands placed on the driver of a commercial motor vehicle. In the interest of public safety, the medical examiner is required to certify that the driver does not have any physical, mental, or organic condition that might affect the driver's ability to operate a commercial motor vehicle safely.

General information. The purpose of this history and physical examination is to detect the presence of physical, mental, or organic conditions of such a character and extent as to affect the driver's ability to operate a commercial motor vehicle safely. The examination should be conducted carefully and should at least include all of the information requested in the following form. History of certain conditions may be cause for rejection, indicate the need for further testing, and/or require evaluation by a specialist. Conditions may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these conditions should be discussed with the driver and he/she should be advised to take the necessary

steps to insure correction, particularly of those conditions which, if neglected, might affect the driver's ability to drive safely.

General appearance and development. Note marked overweight. Note any postural defect, perceptible limp, tremor, or other conditions that might be caused by alcoholism, thyroid intoxication or other illnesses.

Head-eyes. When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the driver wears corrective lenses for driving, these should be worn while driver's visual acuity is being tested. If appropriate, indicate the driver's need to wear corrective lenses to meet the vision standard on the Medical Examiner's Certificate by checking the box, ''Qualified only when wearing corrective lenses.'' In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as the numerator and the smallest type read at 20 feet as the denominator. Monocular drivers are not qualified to operate commercial motor vehicles in interstate commerce. The use of contact lenses should be noted on the form and there should be sufficient evidence of good tolerance of and adaptation to their use.

Ears. Note evidence of any ear disease, symptoms of aural vertigo, or Meuniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. For the whispered voice test, the individual should be stationed at least 5 feet from the examiner with the ear being tested turned toward the examiner. The other ear is covered. Using the breath which remains after a normal expiration, the examiner whispers words or random numbers such as 66, 18, 23, etc. The examiner should not use only sibilants (s-sounding test materials). The opposite ear should be tested in the same manner. If the individual fails the whispered voice test, the audiometric test should be administered. For the audiometric test, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz. Average the decibel loss at 500 Hz, 1,000 Hz and 2,000 Hz and record as described on the form. If the individual fails the audiometric test and the whispered voice test has not been administered, the whispered voice test should be performed to determine if the standard applicable to that test can be met.

Throat. Note any irremediable deformities likely to interfere with breathing or swallowing.

Heart. Note murmurs and arrhythmias, and any history of an enlarged heart, congestive heart failure, or cardiovascular disease that is accompanied by syncope, dyspnea, or collapse. Indicate onset date, diagnosis, medication, and any current limitation. An electrocardiogram (ECG), exercise stress test (EST) and other tests are required when findings so indicate. It is recommended that a baseline ECG be done at age 40, then every 6 years until age 55, then every 2 years thereafter, and an EST be done at age 45 if the individual manifests one or more cardiac risk factors or has a history of ischemic heart disease.

Blood pressure(BP). If a driver has hypertension and/or is being medicated for hypertension, he or she should be recertified more frequently. An individual diagnosed with mild hypertension (initial BP is greater than 160/90 but below 181/105) should be certified for one 3-month period and should be recertified on an annual basis thereafter if his or her BP is reduced. An individual diagnosed with moderate to severe hypertension (initial BP is greater than 180/104) should not be certified until the BP has been reduced to the mild range (below 181/105). At that time, a 3-month certification can be issued. Once the driver has reduced his or her BP to below 161/91, he or she should be recertified every 6 months thereafter.

Lungs. Note abnormal chest wall expansion, respiratory rate, breath sounds including wheezes or alveolar rales, impaired respiratory function, dyspnea, or cyanosis. Abnormal finds on physical exam may require further testing such as pulmonary tests and/or x-ray of chest.

Abdomen and Viscera. Note enlarged liver, enlarged spleen, abnormal masses, bruits, hernia, and significant abdominal wall muscle weakness and tenderness. If the diagnosis suggests that the condition might interfere with the control and safe operation of a commercial motor vehicle, further testing and evaluation is required.

Genital-urinary and rectal examination. A urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problems. Note hernias or severe hemorrhoids. A condition causing discomfort should be evaluated to determine the extent to which the condition might interfere with the control and safe operation of a commercial motor vehicle.

Neurological. Note impaired equilibrium, coordination, or speech pattern; paresthesia; asymmetric deep tendon reflexes; sensory or positional abnormalities; abnormal patellar and Babinski's reflexes; ataxia. Abnormal neurological responses may be an indication for further testing to rule out an underlying medical condition. Any neurological condition should be evaluated for the nature and severity of the condition, the degree of limitation present, the likelihood of progressive limitation, and the potential for sudden incapacitation. In instances where the medical examiner has determined that more frequent monitoring of a condition is appropriate, a certificate for a shorter period should be issued.

Spine, musculoskeletal. Previous surgery, deformities, limitation of motion, and tenderness should be noted. Findings may indicate additional testing and evaluation should be conducted.

Extremities. Carefully examine upper and lower extremities and note any loss or impairment of leg, foot, toe, arm, hand, or finger. Note any deformities, atrophy, paralysis, partial paralysis, clubbing, edema, or hypotonia. If a hand or finger deformity exists, determine whether prehension and power grasp are sufficient to enable the driver to maintain steering wheel grip and to control other vehicle equipment during routine and emergency driving operations. If a foot or leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. In the case of any loss or impairment to an extremity which may interfere with the driver's ability to operate a commercial motor vehicle safely, the medical examiner should state on the medical certificate ''medically unqualified unless accompanied by a limb waiver.'' The driver must then apply to the Regional Director of Motor Carriers, in the region in which the driver has legal residence, for a limb waiver under § 391.49.

Laboratory and Other Testing. Other test(s) may be indicated based upon the medical history or findings of the physical examination.

Diabetes. If insulin is necessary to control a diabetic driver's condition, the driver is not qualified to operate a commercial motor vehicle in interstate commerce. If mild diabetes is present and it is controlled by use of an oral hypoglycemic drug and/or diet and exercise, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.

Upon completion of the examination, the medical examiner must date and sign the form, provide his/her full name, office address and telephone number. The completed medical examination form shall be retained on file at the office of the medical examiner.

BILLING CODE 4910–22–P

Medical Examination Report

FOR COMMERCIAL DRIVER FITNESS DETERMINATION

1. DRIVER'S INFORMATION Driver completes this section.

Driver's Name (Last, First, Middle)	Social Security No.	Birthdate D / M / Y	Age	Sex ☐ M ☐ F	☐ New certification ☐ Recertification ☐ Follow Up	Date of Exam

Address	City, State, Zip Code	Work Tel: AC Home Tel: AC	Driver License No.	License Class ☐ A ☐ C ☐ B ☐ D	State of Issue

2. HEALTH HISTORY Driver completes this section, but medical examiner is encouraged to discuss with driver.

Yes	No		Yes	No		Yes	No	
☐	☐	Any surgery or hospitalization in last 5 years?	☐	☐	Shortness of breath	☐	☐	Fainting, dizziness
☐	☐	Any serious illness in last 5 years requiring medical attention?	☐	☐	Lung disease, emphysema, asthma, chronic bronchitis, pleurisy	☐	☐	Sleep disorders, daytime sleepiness, severe snoring
☐	☐	Head/Brain injuries, disorders or illnesses	☐	☐	Kidney disease, dialysis	☐	☐	Stroke or paralysis
☐	☐	Seizures, epilepsy ☐ medication _____	☐	☐	Liver disease	☐	☐	Missing or impaired hand, arm, foot, leg, finger, toe
☐	☐	Eye disorders or impaired vision (except corrective lenses)	☐	☐	Digestive problems	☐	☐	Spinal injury or disease
☐	☐	Ear disorders, loss of hearing or balance	☐	☐	Diabetes or elevated blood sugar controlled by ☐ diet ☐ medication ☐ insulin	☐	☐	Chronic, severe low back pain
☐	☐	Heart disease or attack; other cardiovascular condition ☐ medication _____	☐	☐	Nervous or psychiatric disorders, e.g., severe depression	☐	☐	Regular, frequent alcohol use
☐	☐	Heart surgery (valve replacement/bypass, angioplasty, pacemaker)	☐	☐	Loss of or altered consciousness	☐	☐	Narcotic or habit forming drug use
☐	☐	High blood pressure ☐ medication _____						
☐	☐	Muscular disease						

For any YES answer, indicate onset date, diagnosis, medication, treating physician's name and address, and any current limitation.

_____

_____

_____

List any other medications, not already given above, used regularly or recently.

_____

_____

_____

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

_____ Driver's Signature _____ Date

Medical Examiner's Comments on Health History

_____

_____

This form was electronically produced by Elite Federal Forms, Inc.

Form MCS 156 (Rev. 3-98)

TESTING (Medical Examiner completes Section 3 through 7)

3. VISION

Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: *When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. Monocular drivers are not qualified.*

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20/	20/	Right Eye o
Left Eye	20/	20/	Left Eye o
Both Eyes	20/	20/	o

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? ☐ Yes ☐ No

Applicant meets visual acuity requirement only when wearing:

☐ Glasses ☐ Contact Lenses (Lenses well tolerated) ☐ Right lens ☐ Left lens

Monocular Vision: ☐ Yes ☐ No

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Date of Examination	Name of Ophthalmologist or Optometrist (printed)	Tel No.	License No./State of Issue	Signature

4. HEARING

Standard: a) Must first perceive forced whispered voice ≥ 5 ft., with or without hearing aid, or b) average hearing loss in better ear ≤ 40 dB

☐ Check if hearing aid used for tests. ☐ Check if hearing aid **required** to meet standard.

INSTRUCTIONS: *To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500 Hz, -10 dB for 1,000 Hz, -8.5 dB for 2,000 Hz. To average, add the readings for 3 frequencies tested and divide by 3.*

Numerical readings must be recorded.

a) Record distance from patient at which forced whispered voice can first be heard.	Right Ear Feet	Left Ear Feet

b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI S3, 6-1969)	Right Ear 500 Hz	Right Ear 1000 Hz	Right Ear 2000 Hz	Left Ear 500 Hz	Left Ear 1000 Hz	Left Ear 2000 Hz
	Average:			Average:		

5. BLOOD PRESSURE / PULSE RATE

Numerical readings must be recorded.

Blood Pressure	Systolic	Diastolic

Driver qualified if ≤ 160/90 on initial exam.

Pulse Rate	☐ Regular ☐ Irregular

GUIDELINES FOR BLOOD PRESSURE EVALUATION

On initial exam		Within 3 months		Certify
If 161-180 and/or 91-104, Qualify 3 mos. only	___'	If ≤ 160 and/or 90, Qualify for 1 yr. Document Rx & control the 3rd month	___'	Annually if acceptable BP is maintained
If > 180 and/or 104, not qualified until reduced to < 181/105. Then qualify for 3 mos. only.	___'	If ≤ 160 and/or 90, qualify for 6 mos. Document Rx & control the 3rd month	___'	Biannually

Medical examiner should take at least 2 readings to confirm blood pressure.

6. LABORATORY AND OTHER TEST FINDINGS

Numerical readings must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.

URINE SPECIMEN	SP. GR.	PROTEIN	BLOOD	SUGAR

If performed, record findings:

☐ Electrocardiogram: Baseline at age 40, then every 6 years until age 55, then every 2 years _____

☐ Exercise Stress Test: 45 years old and manifests CRFs or history of ischemic heart disease _____

☐ echocardiogram _____

☐ chest x ray _____

7. PHYSICAL EXAMINATION

Height: _____ (cm) Weight: _____ (kg)

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen or is readily amenable to treatment. Even if a condition does not disqualify a driver, the medical examiner may consider deferring the driver temporarily. Also the driver should be advised to take the necessary steps to correct the condition as soon as possible particularly if the condition, if neglected, could result in more serious illness that might affect driving.

Check YES or NO to the question, "Is driver's ability to safely operate a commercial motor vehicle affected?" Explain YES answers. Note any disease or injury present.

See Instructions To The Medical Examiner for guidance.

BODY SYSTEM	CHECK FOR:	YES*	NO
1. General Appearance	Marked overweight, tremor, signs of alcoholism, problem drinking, or drug abuse.		
2. Eyes	Pupillary equality, reaction to light, accommodation, ocular motility, ocular muscle imbalance, extraocular movement, nystagmus, exophthalmos, strabismus uncorrected by corrective lenses, retinopathy, cataracts, aphakia, glaucoma, macular degeneration.		
3. Ears	Middle ear disease, occlusion of external canal, perforated eardrums.		
4. Mouth and Throat	Irremediable deformities likely to interfere with breathing or swallowing.		
5. Heart	Murmurs, extra sounds, enlarged heart, pacemaker.		
6. Lungs and chest, not including breast examination.	Abnormal chest wall expansion, abnormal respiratory rate, abnormal breath sounds including wheezes or alveolar rales, impaired respiratory function, dyspnea, cyanosis. Abnormal findings on physical exam may require further testing such as pulmonary tests and/or xray of chest.		
7. Abdomen and Viscera	Enlarged liver, enlarged spleen, abnormal masses, bruits, hernia, significant abdominal wall muscle weakness.		
8. Vascular system	Abnormal pulse and amplitude, carotid or arterial bruits, varicose veins.		
9. Genito-urinary system, (pelvic examination, if necessary).	Hernias.		
10. Rectal	Severe hemorrhoids.		
11. Extremities - Limb impaired. Driver may be subject to limb waiver program if otherwise qualified.	Loss or impairment of leg, foot, toe, arm, hand, finger. Perceptible limp, deformities, atrophy, semiparalysis, paralysis, clubbing, edema, hypotonia. Insufficient grasp and prehension in upper limb to maintain steering wheel grip. Insufficient mobility and strength in lower limb to operate pedals properly.		
12. Spine, other musculoskeletal	Previous surgery, deformities, limitation of motion, tenderness.		
13. Neurological	Impaired equilibrium, coordination or speech pattern; paresthesia, asymmetric deep tendon reflexes, sensory or positional abnormalities, abnormal patellar and Babinski's reflexes, ataxia.		

* COMMENTS: Describe any abnormality in detail. Enter applicable item number before each comment. If organic disease is present, note that it has been compensated for.

_____

_____

_____

How long have you known this patient? _____

Complete this section only if driver *does not* qualify for 2-year medical certificate. *See Instructions To The Medical Examiner for guidance.*

- ☐ Does not meet standards
- ☐ Meets standards, but periodic evaluation required.

  Due to _____ driver qualified only for:

  - ☐ 3 months ☐ Other
  - ☐ 6 months
  - ☐ 1 year
- ☐ Temporarily disqualified due to _____. condition or medication.

  Return to medical examiner's office for follow up on _____.

Medical Examiner's Signature _____

Medical Examiner's Name (print) _____

Address _____

Telephone Number _____

Complete this medical certificate if driver qualifies.

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when

- ☐ wearing corrective or contact lenses
- ☐ wearing hearing aid
- ☐ accompanied by a _____ waiver
- ☐ driving within an exempt intracity zone
- ☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER	TELEPHONE	DATE
NAME (PRINT)	☐ MD ☐ DO ☐ Physician Assistant ☐ Chiropractor ☐ Advance Practice Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO / ISSUING STATE		
SIGNATURE OF DRIVER	DRIVER'S LICENSE NO.	STATE
ADDRESS OF DRIVER		
MEDICAL CERTIFICATE EXPIRATION DATE		

This medical certificate must be carried by the driver when operating commercial vehicle.

49 CFR 391.41 Physical Qualifications for Drivers

THE DRIVER's ROLE

Responsibilities, work schedules, physical and emotional demands, and lifestyles among commercial drivers vary by the type of driving that they do. Some of the main types of drivers include the following: turn around or short relay (drivers return to their home base each evening); long relay (drivers drive 8-10 hours and then have an 8-hour off-duty period); straight through haul (cross country drivers); and team drivers (drivers share the driving by alternating their 4-hour driving periods and 4-hour rest periods).

The following factors may be involved in a driver's performance of duties: abrupt schedule changes and rotating work schedules, which may result in irregular sleep patterns and a driver beginning a trip in a rundown condition; long fatiguing hours; extended time away from family and friends, which may result in lack of social support; tight pickup and delivery schedules, with irregularity in work, rest, and eating patterns; adverse road, weather and traffic conditions, which may cause delays and lead to hurriedly loading or unloading cargo in order to compensate for the lost time; and environmental conditions such as excessive vibration, noise, and extremes in temperature. Transporting passengers or hazardous materials may add to the demands on the commercial driver.

There may be duties in addition to the driving task for which a driver is responsible and needs to be fit. Some of these responsibilities are: coupling and uncoupling trailer(s) from the tractor; loading and unloading trailer(s) (sometimes a driver may lift a heavy load or unload as much as 50,000 lbs. of freight after sitting for a long period of time without any stretching period); inspecting the operating condition of tractor and trailer(s) before, during, and after delivery of cargo; lifting, installing, and removing heavy tire chains; and, lifting heavy tarpaulins to cover open top trailers. The above tasks demand agility, the ability to bend and stoop, the ability to maintain a crouching position to inspect the underside of the vehicle, frequent entering and exiting of the cab, and the ability to climb ladders on the tractor and/or trailer(s).

In addition, a driver must have the perceptual skills to monitor a sometimes complex driving situation, the judgment skills to make quick decisions, when necessary, and the manipulative skills to control an oversize steering wheel, shift gears using a manual transmission, and maneuver a vehicle in crowded areas.

§391.41 PHYSICAL QUALIFICATIONS for DRIVERS

(a) A person shall not drive a motor vehicle unless he is physically qualified to do so and, except as provided in §391.67, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if that person --

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to §391.49;

(2) Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which intereferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has been granted a waiver pursuant to §391.49.

(3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(4) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a motor vehicle safely;

(6) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a motor vehicle safely;

(7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a motor vehicle safely;

(8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;

(9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a motor vehicle safely;

(10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green and amber;

(11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz. and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5---1951.

(12) Does not use a controlled substance identified in 21 CFR 1308.11 *Schedule I,* an amphetamine, a narcotic, or any other habit-forming drug. *Exception:* A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties; and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(13) Has no current clinical diagnosis of alcoholism.

INSTRUCTIONS TO THE MEDICAL EXAMINER

General Information

The purpose of this examination is to determine a driver's medical fitness to operate a commercial motor vehicle as governed by Part 49, Code of Federal Regulations, Sections 391.41-.49. The medical examiner should have some familiarity, therefore, with the driver's responsibilities and work environment, and is referred to the section on the form, The Driver's Role.

In addition to reviewing the Health History section with the driver and conducting the physical examination, particular attention should be given to evaluating any side effects from medications which sometimes can be more functionally impairing than the conditions for which they are administered. History of certain conditions may be cause for rejection, particularly if required by regulation, or may indicate the need for additional laboratory tests or more stringent examination perhaps by a medical specialist. These decisions are usually made by the medical examiner in light of the driver's job responsibilities, work schedule and potential for the condition to render the driver unsafe.

Medical conditions should be recorded even if they are not cause for denial, and they should be discussed with the driver to encourage appropriate remedial care. This advice is especially needed when a condition, if neglected, could develop into a serious illness that could affect driving.

If the medical examiner determines that the driver is fit to drive and is also able to perform non-driving responsibilities as may be required, the medical examiner signs the medical certificate which the driver must carry with his/her license. The certificate must be dated. Under current regulations, the certificate is valid for two years, unless the driver has a medical condition that does not prohibit driving but does require monitoring. In such situations, the medical certificate should be issued for a shorter length of time.

The physical examination should be done carefully and *at least* as complete as is indicated by the attached form. For most drivers, the medical examiner will not need to consult any other information to conduct the examination. It is advisable, however, that the medical examiner become familiar with the detailed recommendations of the medical qualification standards which follow.

Interpretation of Medical Standards

Since the issuance of the regulations for physical qualifications of commercial drivers, the Federal Highway Administration (FHWA) has published recommendations called Regulatory Criteria to help medical examiners in determining whether a driver meets the physical qualifications for commercial driving. These recommendations have been condensed to provide information to medical examiners that (1) is directly relevant to the physical examination and (2) is not already included in the medical examination form. The specific regulation is printed in italics and its reference by section is highlighted.

Federal Motor Carrier Safety Regulations
- Regulatory Criteria -

A person is physically qualified to drive a motor vehicle if he or she:

Loss of Limb:
Section 391.41(b)(1)

Has no loss of a foot, leg, hand or an arm, or has been granted a waiver pursuant to Section 391.49.

Limb Impairment
Section 391.41(b)(2)

Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or (iii) Any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or (iv) Has been granted a waiver pursuant to Section 391.49.

A person who suffers loss of a foot, leg, hand or arm or whose limb impairment in any way interferes with the safe performance of normal tasks associated with operating a commercial vehicle is subject to the waiver program pursuant to Section 391.49, assuming the person is otherwise qualified.

With the advancement of technology, medical aids and equipment modifications have been developed to compensate for certain disabilities. The waiver program was designed to allow persons with the loss of a hand, foot or limb or with functional impairment to qualify under the Federal Motor Carrier Safety Regulations (FMCSRs) by use of prosthetic devices or equipment modifications which enable them to safely operate a commercial motor vehicle. Since there are no medical aids equivalent to the original body or limb, certain risks are still present, and thus restrictions may be included on individual waivers when a Regional Director for the FHWA determines they are necessary to be consistent with safety and public interest.

If the driver is found otherwise medically qualified [§391.41(b)(3) through (13)], the medical examiner must check on the medical certificate that the driver is qualified only if accompanied by a waiver. The driver and the employing motor carrier are subject to appropriate penalty if the driver operates a motor vehicle in interstate or foreign commerce without a current waiver for his/her physical disability.

Diabetes
Section 391.41(b)(3)

Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

Diabetes mellitus is a disease which, on occasion, can result in a loss of consciousness or disorientation in time and space. Individuals who require insulin for control have conditions which can get out of control by the use of too much or too little insulin, or food intake not consistent with the insulin dosage. Incapacitation may occur from symptoms of hyperglycemic or hypoglycemic reactions (drowsiness, semiconsciousness, diabetic coma or insulin shock).

The administration of insulin is, within itself, a complicated process requiring insulin, syringe, needle, alcohol sponge and a sterile technique. Other factors related to the over-the-road commercial motor vehicle in interstate commerce, such as fatigue, lack of sleep, poor diet, emotional conditions, stress, and concomitant illness, compound the diabetic problem. Thus, because of these inherent dangers, the FHWA has consistently held that a diabetic who uses insulin for control does not meet the minimum physical requirements of the FMCSRs.

Hypoglycemic drugs, taken orally, are sometimes prescribed for diabetic individuals to help stimulate natural body production of insulin. These individuals have a less severe form of diabetes mellitus than those requiring insulin for control. If the condition can be controlled by the use of oral medication and diet, then an individual may be qualified under the present rule.

Cardiovascular Condition
Section 391.41(b)(4)

Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive cardiac failure.

The term "has no current clinical diagnosis of" is specifically designed to encompass: a "clinical diagnosis of" (1) a current cardiovascular condition, or (2) a cardiovascular condition which has not fully stabilized regardless of the time limit. The term "known to be accompanied by" is defined to include: a "clini-

cal diagnosis of" a cardiovascular disease (1) which is accompanied by symptoms of syncope, dyspnea, collapse or congestive cardiac failure; and/or (2) which is likely to cause syncope, dyspnea, collapse or congestive cardiac failure.

It is the intent of the FMCSRs to render unqualified a driver who has a current cardiovascular disease which is accompanied by and/or likely to cause symptoms of syncope, dyspnea, collapse, or congestive cardiac failure. However, the subjective decision of whether the nature and severity of an individual's condition will likely cause symptoms of cardiovascular insufficiency is on an individual basis and qualification rests with the medical examiner and the motor carrier. In those cases where there is an occurrence of cardiovascular insufficiency (myocardial infarction, thrombosis, etc.), it is suggested before a driver is certified that he or she have a normal resting and stress electrocardiogram (ECG), no residual complications and no physical limitations, and is taking no medication likely to interfere with safe driving. Commercial drivers should be evaluated for coronary risk factors (CRF)--family history of coronary heart disease (CHD), personal history of smoking, elevated blood pressure and serum cholesterol, glucose intolerance and obesity. Exercise stress testing (EST) to determine functional status is recommended for men over 45 years of age who manifest one or more CRFs. Asymptomatic drivers without disease need not undergo EST unless considered a high risk for developing CHD. Drivers without disease should have a baseline ECG at age 40, then every 6 years until age 55, then every 2 years.

Coronary artery bypass surgery and pacemaker implantation are remedial procedures and not cardiovascular conditions. Thus, while the operations per se do not render the driver unqualified, the underlying conditions which necessitated the surgery may do so. However, the final determination, as stated above, remains on an individual basis. Coumadin is a medical treatment which can improve the health and safety of the driver and should not, by its use, medically disqualify the commercial driver. The emphasis should be on the underlying medical condition(s) which require treatment and the general health of the driver. The FHWA should be contacted directly for additional recommendations regarding the physical qualification of drivers on coumadin.

Respiratory Dysfunction
Section 391.41(b)(5)

Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with ability to control and drive a motor vehicle safely.

A driver must be alert at all times; therefore, any change in his or her mental state is in direct conflict with highway safety. Even the slightest impairment in respiratory function under emergency conditions (when greater oxygen supply is necessary for performance) may be detrimental to safe driving.

There are many conditions that interfere with oxygen exchange and may result in incapacitation, including emphysema, chronic asthma, carcinoma, tuberculosis, chronic bronchitis and fibrotic pleurisy. If the examining physician determines that a respiratory condition is, in any way, likely to interfere with the driver's ability to safely operate a motor vehicle, then he must find the driver not qualified. Anticoagulation therapy for deep vein thrombosis and/or pulmonary thromboembolism is not unqualifying once optimum dose is achieved, provided lower extremity venous examinations remain normal and the treating physician gives a favorable recommendation.

Hypertension
Section 391.41(b)(6)

Has no current clinical diagnosis of high blood pressure likely to interfere with ability to operate a motor vehicle safely.

Initial blood pressure of 161-180 systolic and/or 91-104 diastolic is considered mild hypertension, and the driver is not necessarily unqualified during evaluation and institution of treatment. The driver is given a 3-month period to reduce his or her blood pressure to less than or equal to 160/90; the certifying physician should state on the medical certificate that it is only valid for that 3-month period. If the driver is subsequently found qualified with a blood pressure less than or equal to 160/90, the certifying physician may issue a medical certificate for a 1-year period but should confirm blood pressure control in the third month of this 1-year period. The individual should be certified annually thereafter. The expiration date must be stated on the medical certificate.

Initial blood pressure of greater than 180 systolic and/or greater than 104 diastolic is considered moderate to severe. The driver may not be qualified, even temporarily, until his or her blood pressure has been reduced to less than 181/105. The examining physician may temporarily certify the individual once the individual's blood pressure is below 181 and/or 105. For initial blood pressure greater than 180 and/or 104, documentation of continued control should be made every 6 months. The individual should be certified biannually thereafter. The expiration date must be stated on the medical certificate.

Evaluation of the hypertensive commercial driver should include additional risk factors and evidence of target organ damage. Inquiry should be made regarding smoking, cardiovascular disease in relatives, and immoderate use of alcohol. An ECG and blood profile, including glucose, cholesterol, HDL cholesterol, creatinine and potassium, should be made. An echocardiogram and chest x-ray are desirable in subjects with moderate or severe hypertension.

Since the presence of target organ damage increases the risk of sudden collapse, group 3 or 4 hypertensive retinopathy, left ventricular hypertrophy not otherwise explained (echocardiographic or ECG by Estes criteria), evidence of severely reduced left ventricular function, or serum creatinine of greater than 2.5 warrants the driver being found unqualified.

Treatment includes nonpharmacologic and pharmacologic modalities as well as counseling to reduce other risk factors. Most antihypertensive medications also have side effects, the importance of which must be judged on an individual basis. Side effects of somnolence or syncope are particularly undesirable in commercial drivers. Commercial drivers should be informed of the side effects of drug therapy and the interaction of these drugs with other medications, prescription and nonprescription, and alcohol. Commercial drivers who present for certification with normal blood pressures but are taking medication(s) for hypertension should be certified on the same basis as individuals who present with blood pressures in the mild or moderate to severe range. Annual recertification is recommended if the medical examiner is unable to establish the blood pressure at the time of diagnosis.

A commercial driver who has a normal blood pressure 3 or more months after a successful operation for pheochromocytoma, primary aldosteronism (unless bilateral adrenalectomy has been performed), renovascular disease, or unilateral renal parenchymal disease and who shows no evidence of target organ damage should be qualified. If residual hypertension is present and can be controlled with acceptable drugs and there is no target organ disease, the driver should be qualified on the same basis as those with essential hypertension.

Rheumatic, Arthritic, Orthopedic, Muscular, Neuromuscular or Vascular Disease
Section 391.41(b)(7)

Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with ability to control and operate a motor vehicle safely.

Certain diseases have acute episodes of transient muscle weakness, poor muscular coordination, abnormal sensations, decreased muscular tone, visual disturbances and pain which may be suddenly incapacitating. With each recurring episode, these symptoms may become more pronounced and remain for longer periods of time. Other diseases have more insidious onsets and display symptoms of muscle wasting (atrophy), swelling and paresthesia which may not suddenly incapacitate a person but may restrict his/her movements and eventually interfere with the ability to safely operate a motor vehicle. In many instances these diseases are degenerative in nature or may result in functional impairment of the involved area.

Once the individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease, then he or she has an established history of that disease. The medical examiner should consider the following: (1) the nature and severity of the individual's condition, (2) the degree of limitation present, (3) the likelihood of progressive limitation, and (4) the likelihood of sudden incapacitation. If severe functional impairment exists, the driver does not meet the FMCSRs. In cases where more frequent monitoring is required, a certificate for a shorter time period may be issued.

Epilepsy
Section 391.41(b)(8)

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

It is the intent of this Section to render permanently unqualified a driver who has a medical history or clinical diagnosis of epilepsy.

If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications.

Mental Illness
Section 391.41(b)(9)

Has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with ability to drive a motor vehicle safely.

Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention and judgment. These problems often underlie physical disorders. A variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving. Physical fatigue, headache, impaired coordination, recurring physical ailments and chronic " nagging" pain may be present to such a degree that certification for commercial driving is inadvisable. Somatic and psychosomatic complaints should be thoroughly examined when determining an individual's overall fitness to drive. Disorders of a periodically incapacitating nature, even in the early stages of development, render a drive unqualified.

Vision
Section 391.41(b)(10)

Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The term "ability to recognize the colors of" is interpreted to mean if a person can recognize and distinguish among traffic control signals and devices showing standard red, green and amber, he or she meets the minimum standard, even though he or she may have some type of color perception deficiency. If certain color perception tests are administered, (such as Ishihara, Pseudoisochromatic, Yarn) and doubtful findings are discovered, a controlled test using signal red, green and amber may be employed to determine the driver's ability to recognize these colors.

Hearing Section
Section 391.41(b)(11)

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5 — 1951.

Since the prescribed standard under the FMCSRs is the American Standards Association (ANSI), it may be necessary to convert the audiometric results from the ISO standard to the ANSI standard. Instructions are included on the Medical Examination report form.

Drug Use
Section 391.41(b)(12)

Does not use a controlled substance identified in 21* CFR *1308.11* Schedule I, *an amphetamine, a narcotic, or any other habit-forming drug.* Exception:** ***A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties; and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

This rule does not prohibit the use of a drug or medication that is prescribed or authorized by a medical practitioner (physician or dentist) licensed or otherwise authorized to practice by the State. This is contingent on the treating medical practitioner or physician making a good faith judgment, with notice of the driver's assigned duties and on the basis of available medical history, that use of the substance by the driver at the prescribed or authorized dosage level is consistent with the safe performance of the driver's duties. This exception does not apply to methadone. Motor carriers are encouraged to obtain a practitioner's written statement about the effects on transportation safety of the use of a particular drug medication by a commercial driver if the carrier has concern. A test for controlled substances is not required as part of this biennial fitness certification process. The FHWA or the driver's employer should be contacted directly for information on controlled substances and alcohol testing under Part 382 of the FMCSRs.

Alcoholism
Section 391.41(b)(13)

Has no current clinical diagnosis of alcoholism.

The term "current clinical diagnosis of" is specifically designed to encompass a current alcoholic illness or those instances where the individual's physical condition has not fully stabilized, regardless of the time element. If an individual shows signs of having an alcohol-use problem, he or she should be referred to a specialist. After counseling and/or treatment, he or she may be considered for certification.

(g) If the medical examiner finds that the person he/she examined is physically qualified to drive a commercial motor vehicle in accordance with § 391.41(b), the medical examiner shall complete a certificate in the form prescribed in paragraph (h) of this section and furnish one copy to the person who was examined and one copy to the motor carrier that employs him/her.

(h) The medical examiner's certificate shall be substantially in accordance with the following form. Existing forms may be used until current printed supplies are depleted or until (insert date 12 months after the date of publication in the **Federal Register**), whichever occurs first.

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when

- ☐ wearing corrective or contact lenses
- ☐ wearing hearing aid
- ☐ accompanied by a _____ waiver
- ☐ driving within an exempt intracity zone
- ☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER	TELEPHONE	DATE

NAME (PRINT)	☐ MD ☐ DO ☐ Chiropractor ☐ Physician Assistant ☐ Advance Practice Nurse

MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO / ISSUING STATE

SIGNATURE OF DRIVER	DRIVER'S LICENSE NO.	STATE

ADDRESS OF DRIVER

MEDICAL CERTIFICATE EXPIRATION DATE

[FR Doc. 98–20919 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 072898A]

RIN 0648-AL22

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Notice of availability, request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 45 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) for Secretarial review. This amendment would reauthorize the allocation of pollock to the Western Alaska Community Development Quota (CDQ) Program and would reorganize the FMP so that all text addressing the CDQ Program is in a single section. This action is necessary to further the objectives of the FMP. Comments from the public are requested.

DATES: Comments on Amendment 45 must be submitted by October 5, 1998.

ADDRESSES: Comments on the FMP amendment should be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 45, the environmental assessment and the regulatory impact review prepared for the proposed action are available from NMFS, at the above address, or by calling the Alaska Region, NMFS at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or amendment, immediately publish a document in the **Federal Register** that the fishery management plan or amendment is available for public review and comment. This action constitutes such notice for Amendment 45 to the FMP.

Amendment 45 was adopted by the Council at its June 1998 meeting. If approved by NMFS, this amendment would allocate 7.5 percent of the total allowable catch of pollock in the BSAI to the CDQ Program. This action is necessary to continue the annual allocation of pollock to the CDQ program that was initially approved by NMFS in 1992.

NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 45 has been submitted for Secretarial review and approval. The proposed rule to implement this amendment is scheduled to be published within 15 days of this document.

Dated: July 30, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–20888 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 150
Wednesday, August 5, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Missouri Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 6:30 p.m. and adjourn at 8:30 p.m. on August 26, 1998, at the Marriott Hotel, 1 Broadway, St. Louis, Missouri. The purpose of the meeting is to plan future projects and hold new member orientation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–20849 Filed 8–4–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1756 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351, published at 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from Indonesia are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China* (63 FR 5360, February 2, 1998)), the following events have occurred:

During January through February of 1998, the Department of Commerce (''the Department'') requested information from the U.S. Embassy in Indonesia to identify producers/exporters of the subject merchandise. During the month of February 1998, the Department also requested and received comments from the petitioners and potential respondents regarding model matching criteria.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also on February 27, 1998, the Department issued an antidumping duty questionnaire to the following producers: PT Dieng Djaya (''Dieng''), PT Indo Evergreen Agro Business Company, PT Surya Jaya Abadi Perkasa (''Surya''), PT Tuwuh Agung and PT Zeta Agro Corporation (''Zeta'').

On March 30, 1998, the Department issued a notice setting aside a period for interested parties to raise issues regarding product coverage. *Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage* (63 FR 16971 (April 7, 1998)). No parties to this investigation filed comments regarding product coverage.

In April 1998, the Department received responses to Section A of the questionnaire from Dieng, PT Indo Evergreen Agro Business Company, Surya, PT Tuwuh Agung and Zeta. Dieng and Surya informed the Department that they were affiliated companies as defined by the Department's regulations; therefore, the two companies submitted a combined response, in accordance with 19 CFR 351.401(f). Dieng/Surya also informed the Department that PT Tuwuh Agung, a related company, was not a manufacturer or exporter of subject merchandise. Dieng/Surya and Zeta reported that their home market and third country markets were not viable during the period of investigation (''POI'') and, therefore, each of the companies would submit constructed value (''CV'') of the subject merchandise.

On April 14, 1998, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* ''Respondent

Selection'' section below. The Department determined that it would analyze the responses of the two largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department selected the two largest companies in Indonesia, Dieng/Surya and Zeta, to be mandatory respondents (*see* Memorandum to Louis Apple, dated April 14, 1998).

We received responses to Sections C and D of the questionnaire from Dieng/Surya and Zeta in April 1998. We issued a supplemental questionnaire for Sections A, C, and D to Dieng/Surya and Zeta in April 1998, and received responses to these questionnaires in June 1998.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. *See* 63 FR 27264 (May 18, 1998). Petitioners and respondents provided additional comments on the responses during July 1998.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on July 14, 1998, Dieng/Surya and Zeta requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On July 23, 1998, Dieng/Surya and Zeta amended their request to include a request to extend the provisional measures by not more than six months. In accordance with 19 CFR 351.210(b), because our preliminary determination is affirmative, (2) Dieng/Surya and Zeta account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. In addition, we are extending the provisional measures by not more than six months. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under these investigations are the species Agaricus bisporus and Agaricus bitorquis. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following: (1) all other species of mushroom including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms'; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47, 2003.10.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is January 1, 1997, through December 31, 1997.

Fair Value Comparisons

To determine whether sales of mushrooms from Indonesia to the United States were made at less than fair value, we compared export price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

In this proceeding, none of the respondents had a viable home market or third country market. Therefore, as the basis for NV, we used CV when making comparisons, in accordance with section 773(a)(4) of the Act.

Export Price

For both Dieng/Surya and Zeta we used EP methodology, in accordance with section 772(a) of the Act, because the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. For all respondents, we calculated EP based on packed prices charged to the first unaffiliated customer in the United States.

Dieng/Surya

We based EP on the packed FOB seaport prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with 772(c)(2)(A) of the Act. In addition, we made an adjustment to U.S. price for a refund in the form of a tax credit made to Dieng/Surya by the Indonesian government for excise tax paid on imported glass jars and tops that were eventually used for exported merchandise, in accordance with 772(c)(2)(B) of the Act.

Zeta

We based EP on the packed FOB prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

After testing (1) home market viability, we calculated NV as noted in the ''Price-to-CV Comparisons'' section of this notice.

Home Market or Third Country Viability

In order to determine whether there is a sufficient volume of sales in the home market or third country to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market or third country sales of the foreign like product are equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondents' volume of home market and third country sales, respectively, of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(B) and (C) of the Act. Because each respondent reported that the aggregate volume of home market and/or third country sales of the foreign like product was less than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined for each respondent that the home and third country markets were not viable. Therefore, we used CV as a basis for calculating NV for both respondents, in

accordance with section 773(a)(4) of the Act.

Calculation of CV

We calculated CV for each respondent in accordance with section 773(e)(1) of the Act, which indicates that CV shall be based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs.

We made the following adjustments for Zeta: Zeta allocated fresh mushroom costs between fresh and canned products based on the relative sale values of all mushroom products. This methodology is appropriate only in certain situations involving the allocation of joint-product costs (*i.e.*, where a single production process yields simultaneously two or more products). In this case, the identical mushrooms are inputs into fresh and canned mushrooms products. Therefore, we recalculated the allocation of mushroom growing costs (*i.e.*, material, direct labor, variable overhead, and fixed overhead incurred at the farm) between fresh mushrooms and canned mushrooms based on the respective quantity of fresh mushrooms used for each product.

In its April 20, 1998, submission, Zeta claimed a startup adjustment under section 773(f)(1)(C)(ii) of the Act. In order to make a startup adjustment, the statute requires that (I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (II) production levels are limited by technical factors associated with the initial phase of production. Preliminarily, we determine that Zeta's canning factory is a new production facility. However, Zeta failed to identify suitable technical factors; therefore, we did not accept Zeta's startup adjustment. The technical factor identified by Zeta related to the lack of raw material supply because mushrooms were not grown until the cannery was built, which, in turn, resulted in a shortage of mushrooms at the beginning of the cannery's operation. We do not consider shortage of raw materials to be a technical factor associated with the canning facility.

Because there are no viable comparison markets for Dieng/Surya and Zeta and, hence, no actual company-specific profit and SG&A data available for the respondents, we calculated profit and selling expenses in accordance with section 773(e)(2)(B)(iii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong, 2d Sess (1994), (SAA) at 841.

Specifically, the SAA provides that where, due to the absence of data, the Department cannot determine amounts for profit under alternatives (i) or (ii) of section 773(e)(2)(B) of the Act or a ''profit cap'' under alternative (iii) of section 773(e)(2)(B) of the Act, the Department may apply alternative (iii) on the basis of the facts available. In this case, we are unable to determine an amount for profit under alternatives (i) or (ii), or a ''profit cap'' under alternative (iii) because none of the respondents has viable home markets. See 19 CFR 351.405(b)(2) of the Department's regulations (clarifying that under section 773(e)(2)(B) of the Act, ''foreign country'' means the country in which the merchandise is produced), (62 FR 27296, 27412–13 (May 19, 1997)). The statute directs us to use an amount which reflects profit in connection with sales for consumption in the foreign country of the same general category of products as the subject merchandise *See* section 773(e)(2) of the Act. Because none of the respondents had a viable home market, the profit and selling expenses shown on their financial statements do not reflect profit and selling expenses realized in the home market. Therefore, we did not rely on the profit or selling expense data in the respondents' financial statements in calculating CV.

Instead, we applied alternative (iii) and determined profit and selling expense on the basis of the facts available consistent with the SAA (*See Shop Towels from Bangladesh; Final Results of Antidumping Duty Administrative Review*, 61 FR 55957, October 30, 1996). As facts available, we calculated Zeta's and Dieng/Surya's profit and selling expenses for CV based on the weighted-average selling expenses and profit contained in PT Indofood Sukses Makmur's 1996 financial statements. PT Indofood Sukses Makmur is a large Indonesian processor of food products. For G&A expenses, we used the actual expenses contained in the respondents' financial statements.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV pursuant to section 773(a)(8) of the Act. Dieng/Surya did not provide costs to be used as CV for comparison for one product. As facts available, we have applied the costs from a comparable product.

In their July 6, l998, submission, the petitioners argue that the Department should use two averaging periods in its margin calculations to account for the effect of the devaluation of the Indonesian rupiah. The petitioners contend that CV differs significantly and dramatically over the course of the POI when exchange rates are taken into account. To support their argument, petitioners cite *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14106, March 29, 1996, (''*PVA from Taiwan*''), where the Department established two averaging periods because of a ''distinct dividing line'' between price trends in the home market. Accordingly, the petitioners contend that the Department should calculate the weighted-average EP for two averaging periods—January through June 1997 and July through December 1997—in order to avoid distorting dumping margins.

We have examined the prices and selling practices of the two respondents in this investigation and find that the respondents' selling practices have been constant. We find no evidence that there has been a significant change in the respondents' pricing or marketing during the POI. This situation contrasts with *PVA from Taiwan*, where the respondent changed the way it conducted business with its principal home market customers, including its price structure, while at the same time, U.S. prices and input cost trends moved in tandem. Thus, contrary to the petitioners' assertions, this case is not analogous to *PVA from Taiwan*. Therefore, we find no basis to depart from our practice of calculating the weighted-average EPs for the entire POI.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-

liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
PT Dieng Djaya/PT Surya Jaya Abadi Perkasa	11.24
PT Zeta Agro Corporation	29.58
All Others	15.35

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 16, 1998, and rebuttal briefs no later than October 23, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 27, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 773(d) and 777(i)(1) of the Act.

Dated: July 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20909 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–804]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Katherine Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from Chile are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China* (63 FR 5360, February 2, 1998)), the following events have occurred:

During January and February 1998, the Department requested information from the U.S. Embassy in Chile to identify producers/exporters of the subject merchandise. During February 1998, the Department also requested and received comments from the petitioners and potential respondents regarding the model matching criteria.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also on February 27, 1998, the Department issued an antidumping duty questionnaire to Nature's Farm Products (Chile), S.A. (''NFP''), the sole exporter of the subject merchandise from Chile.

In March 1998, the Department received a response to Section A of the questionnaire from NFP. NFP reported that its home market was not viable during the period of investigation (POI), but that its sales to Brazil during the POI constituted a viable third country market.

On March 30, 1998, the Department issued a notice identifying a period for interested parties to raise issues regarding product coverage. (*See Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage*, 63 FR 16971 (April 7, 1998). NFP submitted comments on April 30, 1998, stating that product coverage should include fresh mushrooms as well as preserved mushrooms.

On April 1, 1998, the petitioners in this investigation, L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Sunny Dell Foods, Inc., and United Canning Corp., submitted a timely allegation pursuant to section 773(b) of the Act that NFP had made sales in the third country market at less than the cost of production (''COP''). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that NFP sold mushrooms in the third country market at prices less than the COP. Accordingly, we initiated a COP investigation with respect to NFP pursuant to section 773(b) of the Act (*See* Memorandum from Team to Louis Apple, Office Director, dated April 8, 1998).

On April 30, 1998, the Department requested comments as to whether it should consider ''whole mushroom size'' as a physical characteristic for its model matching methodology. On May 14, 1998, NFP responded to the Department's request for information.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. (*See* 63 FR 27264, May 18, 1998).

We received NFP's responses to Sections B and C of the questionnaire in April 1998. We issued a supplemental questionnaire for Sections A, B, and C to NFP in April 1998 and received responses to these questionnaires, along with the Section D response, in May 1998. In May 1998, we issued a supplemental questionnaire for Section D to NFP and received the response to this questionnaire in June 1998. NFP submitted additional information concerning its response data in June and July 1998.

In the supplemental Section B response, NFP stated that, after a review of its date of sale methodology for U.S. sales, revisions to its POI sales totals indicated that the home market may, in fact, be viable. In response, the petitioners filed a sales below COP allegation on NFP's home market sales on July 6, 1998. As discussed below under ''Home Market Viability, '' the Department has determined that the home market is not viable.

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the species Agaricus bisporus and Agaricus bitorquis. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following: (1) All other species of mushroom including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms'; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47.2003.10.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (''POI'') is January 1, 1997, through December 31, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by NFP covered by the description in the ''Scope of Investigation'' section, above, and sold to Brazil during the POI to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. As discussed below, we determined that there were no comparable third country sales in the ordinary course of trade (*i.e.*, above cost) during the POI. Therefore, we compared U.S. sales to constructed value (''CV''), as described below.

Fair Value Comparisons

To determine whether sales of mushrooms from Chile to the United States were made at less than fair value, we compared constructed export price (''CEP'') to the Normal Value (''NV''), as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs for comparison to weighted-average NVs or CVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In this case, we compared all U.S. sales to CV, as noted above. As we could not determine the LOT of the sales from which we derived the profit for CV, we could not determine whether there is a difference in LOT between any U.S. sales and CV. Therefore, we made no LOT adjustment nor a CEP offset to NV.

Constructed Export Price

We calculated CEP, in accordance with subsections 772(b) of the Act, because sales to the first unaffiliated purchaser took place after importation into the United States.

We based CEP on the packed ex-warehouse or delivered prices to unaffiliated purchasers in the United States. We made deductions for discounts and rebates, where applicable. We also made deductions for the following movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, foreign brokerage, international freight (including marine insurance), U.S. customs duties, post-sale warehousing expenses, and U.S. inland freight. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs, commissions and other direct selling expenses), inventory carrying costs, and other indirect selling expenses. We also deducted the profit allocated to these expenses, in accordance with sections 772(d)(3) and 772(f) of the Act.

NFP reported receipt of an export incentive credit from the Chilean government on both U.S. and Brazilian sales. As there is no statutory provision

for an adjustment for this credit, we disregarded it when calculating CEP and NV.

We excluded from our analysis NFP's sales of imperfect merchandise because the quantity involved is insignificant and NFP made no comparable third country sales of this type of merchandise. *See, e.g., Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Canned Pineapple Fruit from Thailand,* 60 FR 2734, 2737 (January 11, 1995).

Normal Value

After testing (1) home market and third country viability as discussed below, and (2) whether third country sales were at below-cost prices, we calculated NV as noted in the ''Price-to-CV Comparisons'' section of this notice.

1. Home and Third Country Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because NFP's aggregate volume of POI home market sales of the foreign like product was less than five percent of its aggregate volume of POI U.S. sales for the subject merchandise (as determined by the date of sale methodology applied by the Department discussed in a Memorandum from the Team to Louis Apple dated July 27, 1998), we determined that the home market was not viable for NFP. However, we determined that Brazil, NFP's largest third country market, was viable in accordance with section 773(a)(1)(B)(ii) of the Act. Therefore, in accordance with section 773(a)(1)(C) of the Act, we determined that Brazil is the appropriate foreign market for calculating NV.

2. Cost of Production Analysis

As stated in the ''Case History'' section of the notice, based on a timely allegation filed by the petitioners, the Department initiated a COP investigation of NFP to determine whether sales were made at prices less than the COP.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of NFP's cost of materials and fabrication for the foreign like product, plus an amount for third country SG&A, interest expenses, and packing costs. We used the information from NFP's Section D supplemental questionnaire response to calculate COP, with the following adjustments:

(1) We revised NFP's submitted general and administrative (''G&A'') expense rate because NFP calculated G&A as a percentage of sales revenue, rather than cost of goods sold . In addition, NFP calculated a separate rate for each product. We calculated a company-wide G&A rate by dividing total G&A expense by total manufacturing cost.

(2) The Department normally calculates financial expenses on a consolidated basis; however, NFP did not provide either a consolidated financial statement or a consolidated financial expense rate. Therefore, we recalculated NFP's financial expense rate based on its non-consolidated financial statement. In its calculation, NFP claimed the full amount of the monetary correction as an offset to its financial expense. We allowed only the portion of the monetary correction associated with the current portion of its bank loans since the remaining portion relates to other fiscal periods. In addition, NFP failed to respond to the Department's request for a detailed analysis of its foreign exchange gains and losses. Therefore, we included the entire amount of the net foreign exchange loss in our calculation of financial expense. We calculated a revised net financial expense and divided it by the total manufacturing costs.

Startup Adjustment Claim. NFP claimed a startup adjustment to its COP under section 773(f)(1)(C) of the Act, alleging that it has yet to achieve commercial production levels and, thus, continues to operate in a start-up mode. Although NFP completed construction of its plant in 1994, it contends that, due to technical difficulties associated with harvesting necessary raw materials, commercial production levels have not yet been reached. NFP estimates that these levels will be reached in mid-1999.

Section 773(f)(1)(C)(ii) of the Act authorizes adjustments for start-up operations ''only where (I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and (II) production levels are limited by technical factors associated with the initial phase of production.'' NFP's production facilities were three years old by the start of the POI; therefore, we do not consider these facilities to be ''new'' within the meaning of section 773(f)(1)(C)(ii)(I) of the Act.

Moreover, NFP has not identified any additional costs associated with ''substantially retooling'' its production facilities, which, according to the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (''SAA''), might satisfy the first criterion. Because section 773(f)(1)(C)(ii) of the Act establishes that both prongs of the test must be met before a startup adjustment is warranted, this finding is sufficient to deny NFP's claim. Therefore, we need not address NFP's arguments concerning technical factors that limit commercial production levels (*see Notice of Final Determination of Sales at Not Less Than Fair Value: Collated Roofing Nails from Korea,* 62 FR 51420, 51426, October 1, 1997).

B. Test of Third Country Sales Prices

We compared the weighted-average COP for NFP, adjusted where appropriate, to third country sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard third country market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the third country market prices, less any applicable movement charges, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with

section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

We found that all of NFP's Brazilian sales were at prices below the COP. Thus, in the absence of any above-cost Brazilian sales, we compared constructed export prices to CV in accordance with section 773(a)(4) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of NFP's cost of materials, fabrication, SG&A, interest, and U.S. packing costs. We made the same adjustments to NFP's reported costs for the CV calculation as we made for the COP calculation.

Because there were no above-cost Brazilian sales and hence no actual company-specific profit data available for NFP's sales of the foreign like product to Brazil, we calculated profit expenses in accordance with section 773(e)(2)(B)(iii) of the Act and the SAA. Section 773(e)(2)(B)(iii) states that profit may be determined under any reasonable method with the appropriate ''profit cap.'' The SAA, however, provides that where, due to the absence of data, the Department cannot determine amounts for profit under alternatives (i) or (ii) of section 773(e)(2)(B) of the Act or a ''profit cap'' under alternative (iii) of section 773(e)(2)(B) of the Act, the Department may apply alternative (iii) on the basis of the facts available (SAA at 841). In this case, we are unable to determine an amount for profit under alternatives (i) or (ii), or a ''profit cap'' under alternative (iii) because we do not have actual amounts incurred by NFP on sales of merchandise in the same general category as the subject merchandise and because NFP is the only producer subject to this investigation. Therefore, as facts availabe under section 773(e)(2)(B)(iii) of the Act, for NFP's profit we are using the 1996 profit margin for Ianasafrut S.A., a leading Chilean fruit and vegetable producer. We believe this data is a reasonable surrogate for NFP's profit because it is based upon a Chilean producer's experience on sales of the same general category as the subject merchandise for a period in which there was no alleged dumping. For SG&A, we have used NFP's actual expenses incurred in Chile on Brazilian sales because this data reflects NFP's actual experience in selling the foreign like product.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the amount of indirect selling expenses capped by the amount of the U.S. commissions.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773A of the Act.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Nature's Farm Products (Chile) S.A.	142.43
All Others	142.43

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than September 8, 1998, and rebuttal briefs no later than September 11, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 15, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by October 13, 1998.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: July 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20910 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4929 or (202) 482–4136, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from India are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Investigations: Certain Preserved Mushrooms From Chile, India, Indonesia, and the People's Republic of China* (63 FR 5360, February 2, 1998)), the following events have occurred:

During January and February 1998, the Department requested information from the U.S. Embassy in India to identify producers/exporters of the subject merchandise. During February 1998, the Department also requested and received comments from the petitioners and potential respondents regarding the model matching criteria.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also on February 27, 1998, the Department issued an antidumping duty questionnaire to Agro Dutch Foods (India) (''Agro Dutch''), Alpine Biotech Ltd. (''Alpine Biotech''), Flex Foods, Ltd., Mandeep Mushrooms Ltd. (''Mandeep''), Ponds India Ltd. (''Ponds''), Premier Mushrooms Ltd. (India) (''Premier''), Saptarishi Agro Industries, Ltd. (''Saptarishi''), and Transchem, Ltd. (''Transchem'') .

On March 30, 1998, the Department issued a **Federal Register** notice setting aside a period for interested parties to raise issues regarding product coverage. (*See Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage*, 63 FR 16971 (April 7, 1998). No parties to this investigation filed comments regarding product coverage.

In March and April 1998, the Department received responses to Section A of the questionnaire from Agro Dutch, Flex Foods, Ponds, Premier, Transchem, and Saptarishi. In addition, the Department received a March 14, 1998, letter from Weikfeld Agro Products Ltd., stating that it did not sell the subject merchandise to the United States during 1997.

On April 1, 1998, the petitioners in this investigation, L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Sunny Dell Foods, Inc., and United Canning Corp., submitted a timely allegation pursuant to section 773(b) of the Act that Agro Dutch, Ponds and Transchem had made sales in the third country market at less than the COP. (These three companies reported in their Section A responses that their home markets were not viable). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Agro Dutch, Ponds, and Transchem sold mushrooms in the third country market at prices at less than the COP. Accordingly, we initiated COP investigations with respect to Agro Dutch, Ponds and Transchem pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Office Director, dated April 6, 1998).

On April 14, 1998, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. The Department determined that the resources available to it for this investigation and the three companion investigations limited our ability to analyze any more than the responses of the two largest exporters/producers of the subject merchandise in this investigation. Based on the Section A questionnaire responses, the Department selected the two largest companies, Agro Dutch and Ponds, to be the mandatory respondents in this proceeding (*see* Memorandum to Louis Apple, dated April 14, 1998).

On April 30, 1998, the Department requested comments as to whether it should consider ''whole mushroom size'' as a physical characteristic for its model matching methodology. On May 14, the petitioners and Ponds responded to the Department's request for information. Agro Dutch responded to the Department's request for information in its questionnaire responses. On June 4, 1998, petitioners filed rebuttal comments on this issue.

We received responses to Sections B, C and D of the questionnaire from Agro Dutch, Flex Foods, and Ponds in April 1998. We issued supplemental questionnaires for Sections A, B, C, and D to Agro Dutch and Ponds in May 1998 and received responses to these questionnaires in June 1998.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. (*See* 63 FR 27264, May 18, 1998).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on July 20, 1998, Agro Dutch requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On July 22, 1998, Agro Dutch amended its request to include a request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Agro Dutch accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. On July 23, 1998, Pond's made the same request.

Facts Available

We did not receive a questionnaire response from either Alpine Biotech or Mandeep. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts

otherwise available in reaching the applicable determination under this title.'' Alpine Biotech and Mandeep failed to respond to the Department's questionnaires. Accordingly, we have determined that use of facts available is appropriate for both respondents.

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond in any form to the Department's questionnaire failed to act to the best of their ability in this investigation. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA'') states that ''corroborate'' means to determine that the information used has probative value. See SAA at 870.

In this proceeding, we considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for these uncooperative respondents. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (e.g., import statistics and foreign market research reports). *See* Notice of Initiation.

For purposes of the preliminary determination, we attempted to corroborate the information in the petition. We reexamined the export price and constructed value data (the NV basis for the highest petition margins) provided in the petition for the highest margin calculation in light of information obtained during the investigation and, to the extent that the data could be corroborated, found that it continues to be of probative value, except for the direct materials, labor, and variable overhead costs in the petition constructed value calculation. When compared to the price information for these items reported by the respondents for the most comparable merchandise, we found the petition costs to be significantly different. In this case, we determined that it was appropriate make an adjustment in those values in order to derive a margin that is reliable, relevant, and sufficiently adverse so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner. We recalculated the constructed value in the petition using the highest costs for these items reported by a respondent, and compared that constructed value to the export price used for the highest margin in the petition in order to calculate a margin for the two uncooperative respondents. The result is 243.87 percent (*see* Memorandum to the File dated July 27, 1998).

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the species *Agaricus bisporus* and *Agaricus bitorquis.* ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following: (1) all other species of mushroom including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms'; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47, 2003.10.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is January 1, 1997 through December 31, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Agro Dutch and Ponds covered by the description in the ''Scope of Investigation'' section, above, and sold by Agro Dutch to the Netherlands and sold by Ponds to Denmark (see ''Home Market Viability'' section below) during the POI to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the third country to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product. For those U.S. sales of mushrooms for which there were no comparable third country sales in the ordinary course of trade (*i.e.,* above-cost) , we compared U.S. sales to constructed value (''CV'').

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution, and label type.

Based on an analysis of the comments received, we have not included whole mushroom size as a physical characteristic for purposes of model matching. The Department has received conflicting information on this issue. For example, Agro Dutch claims that mini mushrooms (''minis'') are a premium product and because of sales marketing and cost reasons, this product characteristic must be taken into account. Ponds, on the other hand, states that minis are a substandard product that brings in lower prices than normal size whole mushrooms. The petitioners claim that mushroom size is not a relevant product characteristic for marketing or cost purposes. Accordingly, there is an insufficient basis on the record to find that an additional characteristic is needed at this time.

Fair Value Comparisons

To determine whether sales of mushrooms from India to the United States were made at less than fair value, we compared export price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs for comparison to weighted-average NVs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from exporter to importer. To determine whether NV sales are at a different level of trade than EP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

While neither Agro Dutch nor Ponds claimed a LOT adjustment, we have, nonetheless, undertaken an evaluation to determine whether such an adjustment was necessary. In so doing, we examined both respondents' distribution systems, including selling functions, classes of customers, and selling expenses. Ponds sold to only one class of customer in each market. Ponds reported that it does not incur any selling expenses in the U.S. or third country markets. With regard to Agro Dutch, all sales in both markets are made through one channel of distribution. Accordingly, all comparisons are at the same level of trade for both respondents and an adjustment pursuant to section 773(a)(7)(A) is not warranted.

Export Price

For Agro Dutch and Ponds, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated.

Ponds

We based EP on the packed prices to unaffiliated purchasers in the United States. We made deductions for foreign inland freight, foreign inland insurance and Indian export duty in accordance with section 772(c)(2)(A) of the Act.

Agro Dutch

We based EP on the packed FOB or C&F prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, brokerage and handling, international freight, and Indian export duties, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

After testing (1) home market and third country market viability and (2) whether third country sales were at below-cost prices, we calculated NV as noted in the ''Price to Price Comparisons'' and ''Price to CV Comparisons'' sections of this notice.

1. Home and Third Country Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. Because both Agro Dutch's and Pond's aggregate volume of home market sales of the foreign like product was less than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was not viable for either respondent. However, we determined that the third country markets of the Netherlands and Denmark were viable for Agro Dutch and Ponds, respectively, in accordance with section 773(a)(1)(B)(ii) of the Act. Therefore, pursuant to section 773(a)(1)(C), we have used third country sales as a basis for NV.

In its Section A response, Agro Dutch argued that the foreign like product sold in Mexico is the most appropriate for comparison to the subject merchandise because it is more similar to the product exported to the United States. However, we selected the Netherlands because it is Agro Dutch's largest third country market and we found identical matches to Agro Dutch's U.S. sales using the model matching hierarchy discussed above under ''Product Comparisons.'' We selected Denmark as the appropriate third country market for Ponds because it was the largest of Ponds' third country markets. *See* 19 CFR 351.404(e).

2. Cost of Production Analysis

As stated in the ''Case History'' section of the notice, based on a timely allegation filed by the petitioners, the Department initiated an investigation to determine whether Agro Dutch's and Ponds' third country sales were made at prices less than the COP.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for third country SG&A, interest expenses, and packing costs. We used the information from Agro Dutch's and Ponds' Section D supplemental questionnaire responses to calculate COP, with the following adjustments:

Agro Dutch. (1) We calculated COP using the average direct materials expense reported by Agro Dutch, instead of Agro Dutch's original direct material costs, which were derived using a net realizable value allocation.

(2) In order to put the general and administrative (''G&A'') rate on the same basis as the per-unit cost of manufacturing, we excluded certain expense items from the cost of goods sold used by Agro Dutch as the denominator in its calculation.

(3) We made the same revisions to the denominator used in the financial expense rate for the same purposes.

(4) Finally, we have not included the startup period adjustment amounts claimed by Agro Dutch in the COP calculations. Agro Dutch calculated the startup adjustments based on total production costs. According to the Statement of Administrative Action (''SAA''), section B.5.d.3, page 167: ''Commerce will replace unit production costs incurred during the startup period with unit production costs incurred at the end of the startup period.'' Actual costs for the newly built rooms at the end of the startup phase were not used in Agro Dutch's calculation of the adjustments. Although we have preliminarily denied Agro Dutch's startup adjustment on the basis that it was miscalculated, we will continue to analyze the company's claim that it meets the statutory conditions for startup under section 773(f)(1)C) of the Act.

Ponds. (1) We used Ponds' cost worksheets based on actual yields in our calculations instead of relying on Pond's per-unit costs derived from hypothetical yields.

(2) We increased the cost of manufacturing for certain minis to include an amount for expenses incurred on the reprocessing of minis.

(3) We also revised per-unit variable overhead costs to exclude the Indian

export duty, which we have recalculated as a movement expense.

B. Test of Third Country Sales Prices

We compared the weighted-average COPs for Agro Dutch and Ponds, adjusted where appropriate, to third country sales prices of the foreign like product, as required under section 773(b) of the Act. In determining whether to disregard third country sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the third country prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to weighted-average COPs for the POI, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product. For those U.S. sales of mushrooms for which there were no comparable (above-cost) third country sales in the ordinary course of trade, we compared EP to CV, in accordance with section 773(a)(4) of the Act.

We found that, for certain mushroom products sold by Agro Dutch, more than 20 percent of third country sales were sold at below COP prices within an extended period of time in substantial quantities. We therefore excluded these sales and used the remaining above-cost sales as the basis of determining NV, in accordance with section 773(b)(1) of the Act. For Ponds, we found that all of the third country sales were at prices less than the COP. Thus, in the absence of any above-cost third country sales, we compared EP to CV in accordance with section 773(a)(4) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of cost of materials, fabrication, SG&A, interest, and U.S. packing costs. We made the same adjustments to the reported costs for the CV calculation as we made for the COP calculation.

For Agro Dutch, all comparisons were made on a price-to-price basis. Thus, it was not necessary to calculate CV.

As stated above with regard to Ponds, since there were no above-cost Danish sales and, hence, no actual company-specific profit data available for Ponds's sales of the foreign like product to Denmark, we calculated profit in accordance with section 773(e)(2)(B)(iii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 841. (1994) (''SAA''). Section 773(e)(2)(B)(iii) states that profit may be determined under any reasonable method with the appropriate ''profit cap.'' The SAA, however, provides that where, due to the absence of data, the Department cannot determine amounts for profit under alternatives (i) or (ii) of section 773(e)(2)(B) of the Act or a ''profit cap'' under alternative (iii) of section 773(e)(2)(B) of the Act, the Department may apply alternative (iii) on the basis of the facts available. In this case, we are unable to determine an amount for profit under alternatives (i) or (ii), or a ''profit cap'' under alternative (iii) because we do not have actual amounts incurred by other companies on home market sales of the same general category of products (the so-called profit cap). Therefore, as facts available under section 773(e)(2)(B)(iii) of the Act, for Ponds' profit we are using a rate calculated from Ponds' 1996 financial statements for mushrooms. We believe this data is a reasonable surrogate for profit because it is based upon a period in which there was no alleged dumping. For SG&A, we have used Ponds' actual SG&A expense on sales to the third country. This data reflects Ponds' actual experience in selling the foreign like product.

Price-to-Price Comparisons

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for inland freight, international freight, brokerage and handling, and Indian customs duty. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act, where appropriate, for differences in circumstances of sale for imputed credit expenses. Finally, we deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average third country direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773(A) of the Act.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Agro Dutch Foods Limited	2.75
Pond's India, Ltd.	15.18
Alpine Biotech Ltd.	243.87
Mandeep Mushrooms Ltd.	243.87
All Others	9.97

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports

are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 14, 1998, and rebuttal briefs no later than October 21, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 23, 1998, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration .

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–851]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4136 or (202) 482–4929, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that certain preserved mushrooms (''mushrooms'') from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China,* (63 FR 5360, February 2, 1998) (''*Notice of Initiation*'')), the following events have occurred:

During January and February 1998, the Department requested information from the U.S. Embassy in the People's Republic of China (''PRC'') to identify producers/exporters of the subject merchandise.

On February 27, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

Also, on February 27, 1998, the Department issued an antidumping questionnaire to the China Chamber of Commerce for Import & Export of Foodstuffs, Native Produce, and Animal By-Products (the ''Chamber'') and the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') with instructions to forward the questionnaire to all producers/exporters of the subject merchandise and that these companies must respond by the due dates. During February and March 1998, we sent courtesy copies of the antidumping duty questionnaire to the following companies identified as possible exporters/producers of the subject merchandise during the POI:

Shanghai Maling Canned Food
Fuzhou Cannery
Chin Huay Food Co. (HK) Ltd.
China Ningbo Canned Food
Zhang Zhou General Canned Food
Xia Men Cannery
Raoping Tinned Food Factory
Ruian Canned Factory
Yue Qin Canned Food Factory
Wenzhou Wanli Food Co. Ltd.
Glory Land Food Industrial Co.
Ning De Cannery
Shansha Cannery
Xin an Jiang Canned Food
Cangxi Cannery
Ba Zhong Cannery
Chongqing Cannery
Tung Chun Company
Nang Jin Cannery
Mei Wei Foods Industry Co. Ltd.
Dongguan Canning Factory
Cangban Canned Food Factory
Cofco (Longhai) Food Inc.
Longhai Senox Food Industry Ltd.
Pinghe Canned Factory
Fujian Tiand Food Drink Co.
Shanghai Foreign Trade Xian You
Fuan Canned Food Factory
Xibin Overseas Chinese Canned
Dongya Food Company
Fujian Zhaoan Canned Food
Zhanghou Xiancheng Canned
Zhang Huaqing Canned Food
Zishan Food Canning Plant
Gerber Food (Yunnan) Food Co.
Jiufa Edible Fungus Co. Ltd.
Xiamen Jiahua Export and Import Trading Co. Ltd.
Xiamen Gulong Import Export Co., Ltd.
Bazhong Canned Food Factory
Beiliu Canned Food Factory
Dangdong Canned Food Import & Export Co.
Dayi Brewery
Dongqing Canned Food Processing Factory
Fu'an Kangcuo Cereals & Oils Management Station
Fujian Changshan Huaqiao Canned Food Processing Factory
Fujian Zhangzhou Canned Food Factory
Hebei Edible Fungus Research Institute
Hunan Changsha Canned Food Factory
Jiangsu Rugao Canned Food Factory
Chifeng Fuyuan Cereals & Oils Co.
Fuzhou Native Produce & Animal By-Products Import and Export Co.
Guangdong Heshan Foodstuffs Import & Export Corp.
Beijing Foreign Trade Food Corp.
China National Processed Food Import & Export Corp.
Chengdu Native Produce Import & Export Corp.
Shantou Foodstuffs Import & Export Corp.
Shanghai Cereals & Oil Trade Co.
Guangdong Maoming Native Produce Import & Export Corp.
Henan Native Produce Import and Export Corp.

Qingdao Cereals, Oils & Foodstuffs Import and Export Corp.

On March 30, 1998, the Department issued a notice setting aside a period for interested parties to raise issues regarding product coverage. (*See Certain Preserved Mushrooms from Chile, India, Indonesia, and the People's Republic of China: Comments Regarding Product Coverage*, 63 FR 16971 (April 7, 1998). No parties to this investigation commented on product coverage.

During the period March through June 1998, the Department received questionnaire responses from (1) China Processed Food Import & Export Company (''China Processed'');

(2) Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation (''Jiangsu'');

(3) Shenzhen Cofry Cereals, Oils, & Foodstuffs Company, Ltd. (''Shenzhen Cofry''); (4) Gerber (Yunnan) Food Co.; (5) Fujian Provincial Cereals, Oils & Foodstuffs Import & Export Corp.;

(6) Putian Cannery Fujian Province, Xiamen Gulong Import & Export Co., Ltd.; (7) General Canned Foods Factory of Zhangzhou; (8) Zhejiang Cereals, Oils & Foodstuffs Import & Export Corp.; (9) Shanghai Foodstuffs Import & Export Corp.; (10) Canned Goods Co. of Raoping; and

(11) Xiamen Jiahua Import & Export Trading Company, Ltd. (''Xiamen Jiahua''). In addition, the Department received letters from Beilu Canned Food Factory and Longhai Senox, Ltd., each stating that it did not sell the subject merchandise to the United States during the second half of 1997.

On April 13, 1998, the Department invited interested parties to provide publicly available information (''PAI'') for valuing the factors of production and for surrogate country selection. We received responses from the interested parties on May 27, 1998, and additional comments on June 4, 1998.

On April 14, 1998, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* ''Respondent Selection'' section below.

On April 20, 1998, Gerber requested that it be considered a voluntary respondent in this investigation. On April 28, 1998, we informed Gerber that, due to administrative resource constraints, we would not accept voluntary respondents unless one of the designated mandatory respondents elected not to respond to the Department's questionnaire.

On May 1, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination for forty days. We granted this request and, on May 8, 1998, we postponed the preliminary determination until no later than July 27, 1998. (*See* 63 FR 27264, May 18, 1998).

On June 5, 1998, the respondents requested that the PRC be treated as a market economy in this investigation, and that the PRC mushroom industry be considered a market-oriented industry (''MOI''). The Department issued a MOI questionnaire to the PRC respondents on June 19, 1998, and the respondents submitted their responses on July 17, 1998. Treatment of both of these claims for the preliminary determination is discussed below under ''Nonmarket Economy Country and Market-Oriented Industry Status.''

On June 17, 1998, the petitioners alleged that critical circumstances exist with respect to imports of mushrooms from the PRC. Accordingly, pursuant to section 732(e) of the Act, on June 19, 1998, the Department requested information regarding shipments of mushrooms for the period January 1996 to July 1998 from all mandatory respondents participating in this investigation. We received the requested information on July 6, 1998. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on July 16, 1998, the mandatory PRC respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On July 27, 1998, these parties amended their request to agree to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the products covered are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of the investigation are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this investigation are the following: (1) all other species of mushroom including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms;'' (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled'' mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.27, 2003.10.31, 2003.10.37, 2003.10.43, 2003.10.47, 2003.10.53, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (''HTS''). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of this investigation (''POI'') comprises each exporter's two most recent fiscal quarters prior to the filing of the petition.

Respondent Selection

The Department determined that the resources available to it for this investigation and the three companion mushroom investigations limited our ability to analyze any more than the responses of the three largest exporters/producers of the subject merchandise in this investigation. Based on Section A questionnaire responses, the Department selected the three largest exporters to be the mandatory respondents in this proceeding: China Processed (including its affiliated

exporter, Xiamen Jiahua), Jiangsu, and Shenzhen Cofry. (*See* ''Memorandum from the Team to Louis Apple dated April 14, 1998).

Subsequently, Jiangsu reported in its questionnaire responses that it purchases the subject merchandise from Mei Wei Foods Industrial Co. Ltd. (''Mei Wei'') and resells the merchandise to Tak Fat Trading Company (''Tak Fat''), a Hong Kong trading company, which owns Mei Wei. In submissions separate from Jiangsu, Tak Fat and Mei Wei provided the same information. According to the questionnaire responses and Tak Fat's letters, Tak Fat negotiates the sales prices with the ultimate U.S. customer, and controls the production of Mei Wei, its wholly-owned PRC affiliate. Jiangsu acts only as an intermediary in order to facilitate the export of the merchandise from the PRC and arrange the shipment of the subject merchandise from the PRC. Under these circumstances, we find that Tak Fat is the actual exporter and appropriate respondent. Thus, our analysis for purposes of the preliminary determination was based on Tak Fat's sales during the POI, which included the sales initially reported by Jiangsu sourced from Mei Wei, and the other mandatory exporters and their respective suppliers. As the supplemental questionnaire responses include consolidated data from Tak Fat and Jiangsu, the Department was able to analyze Tak Fat's sales based on submitted data.

Nonmarket Economy Country and Market Oriented Industry Status

The Department has treated the PRC as a nonmarket economy country (''NME'') in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*'') and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22545 (May 8, 1995) (''*Furfuryl Alcohol*'')). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act).

On June 5, 1998, the respondents made a claim that economic changes in the PRC warrant revocation of PRC's NME status. Because the respondents' submission does not provide sufficient support for their claim for market economy status and does not address a number of important factors for determining market economy status (*see,* Memorandum from the Team to Lou Apple, dated July 27, 1998), we have preliminarily determined to continue to treat the PRC as an NME.

In addition, the respondents have claimed that their material inputs are acquired at market prices and that, accordingly, the Department should determine that the PRC mushroom industry is a MOI and should rely on the actual PRC prices for valuing these inputs. Because the supporting information for this claim was submitted by respondents on July 17, 1998, less than two weeks prior to the preliminary determination, we did not have adequate time to analyze the information for purposes of the preliminary determination. However, we will examine the respondents' MOI claim for purposes of the final determination.

Separate Rates

Each respondent has requested a separate company-specific rate. China Processed is wholly owned by China National Cereals, Oils, & Foodstuffs Import & Export Corp., which in turn is owned by ''the whole people.'' Its affiliated exporter Xiamen Jiahua is a domestic joint venture between China National Cereals, Oils & Foodstuffs Corp., and Xiamen Special Economic Trade Group Cereals, Oils, & Foodstuffs Import & Export Company. Both of these companies are also owned by ''the whole people.'' Shenzhen Cofry is a limited liability company owned by the China Ocean Helicopter Company and the Anhui Cereals, Oils, & Foodstuffs Import & Export Group, which, in turn, are both owned by ''the whole people.'' Tak Fat is a Hong Kong trading company which is wholly-owned by Hong Kong entities. Therefore, we determine that no separate rates analysis is required for this exporter.

As stated in *Silicon Carbide* and *Furfuryl Alcohol,* ownership of the company by ''all the people'' does not require the application of a single rate. Accordingly, the above-mentioned companies named as mandatory respondents as well as the companies who submitted a Section A response are eligible for consideration of a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls, *e.g.,* export licenses and quotas and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757, (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279, November 17, 1997; and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 60 FR 14725, 14726, (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) and amplified in *Silicon Carbide.* Under the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. Absence of De Jure Control

The respondents have placed on the record a number of documents to demonstrate absence of de jure control, including the ''Foreign Trade Law of the People's Republic of China'' and the ''Law of the People's Republic of China on Industrial Enterprises Owned By the Whole People.''

In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. (*See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 54472 (October 24, 1995); *see* also *Furfuryl Alcohol.*) We have no new information in this proceeding which would cause us to reconsider this determination.

According to the respondents, exports of mushrooms are also affected by quota allocations under a December 17, 1997, *Notice Regarding Printing and Distributing ''List of Commodities Subject Export License Administration and Issuance of Licenses at Different Levels'' and Relevant Issues* issued by MOFTEC (''*Notice*''). The respondents claim that, although the export license and quota allocation regulations and procedures which applied to sales of the subject merchandise during the POI were promulgated in 1996, they are, for all intents and purposes, the same as those set forth in the 1997 version. Under the Notice, 143 items are subject to export licensing controls with three categories of control—(1) ''controlled''; (2) ''less controlled,'' and (3) the ''least

controlled'' merchandise. Mushrooms fall under the ''least controlled'' category.

The respondents describe the quota process as follows. MOFTEC distributes quota amounts to the provinces and municipalities and exporters (except those located in Beijing, which are supposed to apply to MOFTEC directly). The quota process is administered through export licenses required for the export of the subject merchandise. Neither the quota allocation process nor the export licensing process involve any PRC government participation in the setting of export prices.

Global quota amounts are determined by MOFTEC based on (1) international market demand/supply; (2) the previous year's exports; (3) Chamber proposals; and (4) the suggestions of PRC Provincial Trade Commissions which take into account the requests of mushroom exporters and their previous year's exports as well as requests of other PRC exporters who wish to export, but have not previously received a quota. The Commissions are comprised of local government authorities involved with foreign trade of their provinces. They are separate from MOFTEC, receiving neither funding nor administration from MOFTEC. Once a quota is received, a company may obtain an export license from the applicable Commissions' Trade Administration Import and Export Divisions after it has a commitment from a foreign buyer. Copies of the quotas are sent to MOFTEC and the Chamber.

The Commissions grant the export licenses based on the quotas allocated to each company. Records are kept of each individual company's quota and the quantities it has exported so that the Commissions can determine when an individual company has reached its allocated quota.

Furthermore, according to the respondents, the concept of the ''minimum price'' floor referenced in the *Memorandum on Minimum Price for Export of Canned Mushroom Products* is an agreed minimum price only. The exporters claim to have the autonomy to set the price at whatever level they wish without government interference. The memorandum referenced above did not set forth minimum prices established by the Chamber or the PRC government but, rather, established minimum prices that were discussed among, and agreed to, by the member companies of the Chamber that were involved in the canned mushroom business.

The respondents describe the process for establishing the minimum prices as follows: (1) member companies request the Chamber convene a meeting of all the exporters; (2) the Chamber provides information on domestic productivity and international markets during this meeting; and (3) the member companies then agree to minimum prices and memorialize the agreement in the minutes to the meeting. Therefore, according to the respondents, the minimum price is an agreement among the exporters and a means by which exporters can insure that no exporter is selling subject merchandise lower than what they, as an industry, consider to be the fair market price. In addition, the minimum price is considered a means of ''self-regulation'' among the industry to prevent unfair competition.

The quota system in the instant investigation operates on the basis of transparent and well-defined rules. Companies are free to independently negotiate export prices with their customers above the floor price, which the exporting companies themselves set. MOFTEC has claimed that it does not involve itself in the price-setting of companies that export mushrooms. Thus, the allocation of the export quota is arrived at in a competitive forum, and separate prices are set by each enterprise with industry input regarding the floor price and in open competition with respect to the final price.

In past cases, the Department has determined that there is an absence of government control over export pricing and marketing decisions of firms even though there may be some government involvement with respect to the export of products subject to investigation. *See Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China,* 60 FR 14725, March 20, 1995.

Accordingly, we preliminarily determine that, within the preserved mushroom industry, there is an absence of de jure government control over exporting pricing and marketing decisions of firms.

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (See *Silicon Carbide* and *Furfuryl Alcohol*.) Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see *Silicon Carbide* and *Furfuryl Alcohol*).

China Processed/Xiamen Jiahua and Shenzhen Cofry each asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of their export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Additionally, the three respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of de facto governmental control of the export functions of these companies. Consequently, we preliminarily determine that these exporters have met the criteria for the application of separate rates.

Margins for Exporters Whose Responses Were Not Analyzed

For the responding companies that provided all the questionnaire responses requested of them and otherwise fully cooperated with the Department's investigation, but nonetheless, were not fully analyzed by the Department due to limited resources (see ''Respondent Selection'' section above), including Jiangsu, we are assigning the weighted-average of the rates of the three fully analyzed companies, or a non-adverse facts available rate. Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

The parties who responded but were not analyzed have applied for separate rates, and provided information for the Department to consider in this request. Although the Department is unable, due to administrative constraints, to consider the requests for separate rates status, and to calculate a separate rate for each of these named parties, there has been no failure on the part of these

firms to provide requested information. Because it would not be appropriate for the Department to refuse to consider a request for an examination of separate rates status, and assign to the cooperative firms the rate for the noncooperative firms (which in this case is an adverse margin based on facts available), the Department has assigned a single calculated rate for these firms, which is a weighted-average of the rates of the three analyzed companies.

China-Wide Rate

U.S. import statistics indicate that the total quantity and value of U.S. imports of mushrooms from the PRC is greater than the total quantity and value of mushrooms reported by all PRC exporters that submitted responses in this investigation. Given this discrepancy, it appears that not all exporters of PRC mushrooms responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC, other than those specifically identified below under ''Suspension of Liquidation,'' based on our presumption that the export activities of the companies that failed to respond to the Department's questionnaire are controlled by the PRC government (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, April 30, 1996) (''*Bicycles from the PRC*'').

As explained below, this PRC-wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond in any form to the Department's questionnaire failed to act to the best of their ability in this investigation. Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rates determination. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

As adverse facts available, we are assigning the highest margin in the petition, 198.63%, because the margins in the petition (as recalculated by the Department at initiation) were higher than any of the calculated margins.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that ''corroborate'' means to determine that the information used has probative value. See SAA at 870.

The petitioners methodology for calculating (''EP'') and normal value (''NV'') is discussed in the *Notice of Initiation*. To corroborate the petition's EP calculations, we compared the prices in the petition for three of the products to the prices submitted by respondents for the same mushroom style and container size. To corroborate the petitioners' NV calculations, we compared the petitioners' factor consumption and surrogate value data for those same three products to the data reported by the respondents for the most significant factors—fresh mushrooms, cans, factory overhead, and selling, general, and administrative expenses, and the surrogate values for these factors in the petition to the values selected for the preliminary determination, as discussed below. Our analysis showed that the petitioners' data was either reasonably close to the data submitted by the respondents and the surrogate values chosen by the Department, or conservative (*see* Memorandum to the File dated July 27, 1998 (''Corroboration Memo''). Therefore, we find that the calculations set forth in the petition have probative value.

Fair Value Comparisons

To determine whether sales of the subject merchandise by China Processed/Xiamen Jiahua, Tak Fat, and Shenzhen Cofry to the United States were made at LTFV, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to weighted-average NVs. To value foreign brokerage and handling incurred in the PRC, we relied on the value used in the *Bicycles from the PRC* investigation.

Export Price

China Processed/Xiamen Jiahua

We used EP methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for billing adjustments, inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and ocean freight. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. (*See* ''Normal Value'' section for further discussion). As China Processed and Xiamen Jiahua reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Tak Fat

We used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices, to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and international freight, in accordance with section 772(c) of the Act. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. As Tak Fat reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Shenzhen Cofry

We used EP methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to unaffiliated customers in the United States prior to

importation and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB or C&F prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for billing adjustments, inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and ocean freight. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India. As Shenzhen Cofry reported using market economy carriers for ocean freight, we valued this expense using the actual reported costs.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Sri Lanka, Egypt, and Indonesia are countries comparable to the PRC in terms of overall economic development (*see* Memorandum dated February 23, 1998). According to the available information on the record, we have determined that both India and Indonesia meet the statutory requirements for an appropriate surrogate country for the PRC. For purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producers, factors of production, except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market economy currency. We have obtained and relied upon PAI wherever possible.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced mushrooms for the exporters which sold mushrooms to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values, where possible.

For Longhai Food, Inc. (''Longhai''), which supplied some of the merchandise sold by China Processed, Mei Wei, and Zhaoan Canned Food Factory (''Zhaoan''), which supplied some of the merchandise sold by Shenzhen Cofry, we recalculated the reported mushroom consumption factor for preserved mushroom produced from brined mushrooms, to an amount equivalent to consumption of fresh mushrooms, based on the difference between each producer's reported consumption of both types of mushrooms. We made this adjustment because we were unable to identify a surrogate value for brined mushrooms (*see* below).

For those inputs (*e.g.*, glass jars used by Longhai) that were sourced (either partially or totally) from a market economy and paid for in market economy currency, we used the actual price paid for the input to calculate the factors-based NV, in accordance with 19 CFR 351.408(a)(1). As appropriate, for these imported materials, we calculated PRC brokerage and inland freight from the port to the factory using surrogate rates from India. We valued the remaining factors using PAI from India, except where noted below. Where a producer did not report the distance between the material supplier and the factory, as facts available, we used either the distance to the nearest seaport (if an import value was used as the surrogate value for the factor) or the farthest distance reported for a supplier, as facts available.

Mei Wei claimed it obtained labels from a market economy source and paid market economy prices for this factor, but did not provide the necessary price data. Therefore, we have valued Mei Wei's label consumption based on the Indian surrogate value for labels. Dongya Food Co., Ltd., a supplier to Xiamen Jiahua, claimed that it consumed chlorine purchased from a market economy source. According to the single invoice submitted to support this claim, the material, sodium hypochloride, was purchased in November 1995—over one and a half years prior to the beginning of the POI. Given this long period between purchase and the POI, we have no basis to assume that the material in question was actually used during the POI, nor is it clear from the record that the sodium hypochloride purchased is the same as the chlorine reported as consumed. Therefore, we have not valued this input based on the submitted market economy price and, instead, relied on the surrogate value.

The selection of the surrogate values applied in this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. For a complete analysis of surrogate values, see the Preliminary Determination Valuation Memorandum from the team to the File (''Preliminary Determination Valuation Memorandum''), dated July 27, 1998.

We valued fresh mushrooms using the average unit value derived from the 1996–1997 annual reports from three Indian preserved mushroom producers for their purchases of fresh mushrooms. We were unable to identify an appropriate surrogate value for brined (provisionally preserved) mushrooms; thus, as facts available for the preliminary determination, we used the fresh mushroom value to value brined mushroom consumption but adjusted the reported brined mushroom consumption factor to an amount equivalent to a fresh mushroom consumption factor using an industry standard ratio. For salt and citric acid, we used a domestic price published in the commodity section of *The Financial Express.* For monosodium glutamate (''MSG''), vitamin C (ascorbic acid), tin cans and lids, glass jars, and labels, we used Indian import values from *Monthly Statistics of the Foreign Trade of India (''Monthly Statistics'').* To value chlorine, we used a value from the *Final Determination of Sales at Less Than Fair Value: Coumarin from the PRC,* (59 FR 66895, December 28, 1994), as found in the Department's *Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the People's Republic of China.* To value water consumed in the production process (i.e., water packed in cans or jars with the mushrooms), we relied on the publicly available tariff rates reported in the *Second Water Utilities Data Book.*

Longhai, Zishan Cannery Canned Food Factory (''Zishan''), which also produced merchandise sold by China Processed, and Zhaoan Canned Food Factory (''Zhaoan''), which produced some of the merchandise sold by Shenzhen Cofry, reported that they resold scrap can material. For Longhai and Zishan, we made an offset deduction to the surrogate cost of production using an average unit value derived from 1997 U.S. import statistics. We used this U.S. value as facts available because we were unable to identify an appropriate surrogate value from a surrogate country. We were not able to make the same offset deduction

for Zhaoan because it did not report the necessary factor data. Longhai, Zishan, and Zhaoan, reported that they resold scrap mushrooms not consumed in the canning/jarring process. We were unable to identify an appropriate surrogate value for this material. As this factor does not appear to have a significant impact on the calculation of NV, we have not made an offset for scrap mushrooms in the preliminary determination.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity, we used the 1996 electricity rates reported in an article ''All Charged Up Over the Cost of Power in India'' published in *Business World* in August 1996. We based the value of coal and diesel fuel on the import values from the *Monthly Statistics.*

We based our calculation of factory overhead (which includes water consumed for rinsing and blanching mushrooms), SG&A expenses, and profit on data contained in the financial reports of three Indian producers of the subject merchandise (*i.e.,* Agro Dutch Foods (India), Saptarishi Agro Industries, Ltd., and Transchem, Ltd.).

To value truck freight rates, we used a 1994 rate from *The Times of India.* As we were unable to identify a surrogate value for inland water transportation, we valued boat and barge transportation using the surrogate value for truck freight. With regard to rail freight, we based our calculation on information from the *Indian Railway Conference Association.*

The CAFC's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (CAFC 1997) requires that we revise our calculation of source-to-factory surrogate freight for those material inputs that are based on CIF import values in the surrogate country. Therefore, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory on an import-specific basis.

For the following reported packing materials: glue, tape, corrugated paper, wooden pallets, and shrink wrap, we used import values from the *Monthly Statistics.*

Critical Circumstances

On June 17, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of mushrooms from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed earlier than the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

In this investigation, the first criterion is satisfied. Brazil has levied antidumping duties against preserved mushrooms from the PRC. Brazil's antidumping duty order will be in force until January 2003. Therefore, we preliminarily determine that there is a history of dumping elsewhere of mushrooms by PRC producers/exporters. Because there is a history of dumping, it is not necessary to address whether the importer had knowledge that dumping was occurring and material injury was likely.

Because we have preliminarily found that the first statutory criterion is met, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Under 19 CFR 351.206(h), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports to have been ''massive.'' The Department examines shipment information submitted by the respondent or import statistics when respondent-specific shipment information is not available.

To determine whether or not imports of subject merchandise have been massive over a relatively short period, we compared each of the mandatory respondent's export volume for the five months subsequent to the filing of the petition (January-May 1998) to that during the five months prior to the filing of the petition (August-December 1997). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the effective date of the preliminary determination. For the non-mandatory PRC exporters, we performed this analysis using import statistics and then subtracted the figures of the mandatory respondents. For all other producers/exporters, we performed the analysis using import statistics.

Based on our analysis, we preliminarily find that the increase in imports was greater than 15 percent with respect to the named respondents, the non-mandatory PRC exporters, and all other producers/exporters.

With regard to the seasonality issue, we were unable to discern a seasonal pattern for any of the mandatory respondents, or any other company, based on the information on the record. Furthermore, we were unable to consider the share of domestic consumption accounted for by the imports, pursuant to 351.206(h)(iii), because the available data did not permit such analysis.

However, because there is a history of dumping of such or similar merchandise, and imports of mushrooms from the mandatory respondents, the respondents who were not analyzed, and the respondents who failed to submit a response have been massive over a relatively short period of time, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to mushrooms from the all mandatory respondents in this investigation as well as the non-mandatory respondents and all other producers/exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at LTFV in this investigation.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all

imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
China Processed Food I&E Co./Xiamen Jiahua I&E Trading Company, Ltd	168.72	Yes.
Tak Fat Trading Co	180.63	Yes.
Shenzhen Cofry Cereals, Oils, & Foodstuffs Co., Ltd	189.61	Yes.
Gerber (Yunnan) Food Co	176.78	Yes.
Jiangsu Cereals, Oils & Foodstuffs Group Import & Export Corporation	176.78	Yes.
Fujian Provincial Cereals, Oils & Foodstuffs I&E Corp	176.78	Yes.
Putian Cannery Fujian Province	176.78	Yes.
Xiamen Gulong I&E Co., Ltd	176.78	Yes.
General Canned Foods Factory of Zhangzhou	176.78	Yes.
Zhejiang Cereals, Oils & Foodstuffs I&E Corp	176.78	Yes.
Shanghai Foodstuffs I&E Corp	176.78	Yes.
Canned Goods Co. of Raoping	176.78	Yes.
PRC-wide Rate	198.63	Yes.

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than October 16, 1998, and rebuttal briefs, no later than October 23, 1998. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 28, 1998, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: July 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20912 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Notice of Intent Not To Revoke the Antidumping Duty Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent not to revoke the antidumping duty order in part.

SUMMARY: This notice serves as a supplement to the Department of Commerce's July 10, 1998, notice of preliminary results of administrative review and new shipper review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China (*see*, 63 FR 37339). In those preliminary results of review, we neglected to include our decision as to whether there is a reasonable basis to believe that the requirements for revocation have been met by Luoyang Bearing Factory. Therefore, we are now publishing our intent not to revoke the order with respect to tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China produced and/or exported by Luoyang Bearing Factory. Interested parties are invited to comment on the Department's intent not to revoke the order in part.

EFFECTIVE DATE: August 5, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1279.

Applicable Statute

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, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR 353 (April 1997).

Background

On May 27, 1987, the Department published in the **Federal Register** (52 FR 19748) the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished

(''TRBs''), from the People's Republic of China (''PRC''). The Department notified interested parties of the opportunity to request an administrative review of this order on June 11, 1997 (62 FR 31786). One of the respondents, Luoyang Bearing Factory (''Luoyang''), requested a review and that the Department revoke the antidumping duty order in part. The request was received on June 30, 1997. In accordance with 19 CFR 353.22(c) and 353.25(c), we published a notice of initiation of antidumping duty administrative review and request for revocation of the order in part on August 1, 1997 (62 FR 41339). On July 10, 1998, the Department published in the **Federal Register** the preliminary results of review (*see*, Tapered Roller Bearings and Parts thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of 1996–1997 Antidumping Duty Administrative Review and New Shipper Review, 63 FR 37339 (July 10, 1998) (''Preliminary Results'')).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Merchandise covered by this review includes TRBs from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order and this review is dispositive.

Revocation

Pursuant to 19 CFR 353.25(b), Luoyang requested revocation of the antidumping duty order in part. In accordance with 19 CFR 353.25(b)(1) and (2), the request was accompanied by certifications that Luoyang had not sold the subject merchandise at less than normal value during the current period of review and would not do so in the future. Luoyang also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that Luoyang, subsequent to the revocation, sold the subject merchandise at less than normal value.

Section 353.25(a)(2) of the Department's regulations states that the Secretary may revoke an order in part if the Secretary concludes that: (i) the exporter or producer has sold the merchandise at not less than normal value for a period of three consecutive years; (ii) it is not likely that the person will in the future sell the merchandise at less than normal value; and (iii) the person agrees in writing to its immediate reinstatement in the order, as long as any producer or reseller is subject to the order, if the Secretary concludes that dumping has resumed. In the preliminary results, Luoyang received a dumping margin of 1.82% on its sales for the period June 1, 1996, through May 30, 1997 (*see*, Preliminary Results, 37344). If the preliminary results are adopted as final results, Luoyang will not have met the first criterion for revocation. Thus, there is not a reasonable basis to believe that Luoyang has met the requirements for revocation of the antidumping duty order in part. Therefore, we have preliminarily determined not to revoke the antidumping duty order with respect to TRBs from the PRC produced and/or exported by Luoyang.

With respect to the issue of revocation, parties to the proceeding may request a hearing and include this issue in their submission of case briefs and/or rebuttal briefs in accordance with the deadlines established in the preliminary results. The Department will issue a notice of the final results of the administrative review, which will include the results of its analysis of issues raised in any such briefs, within 120 days from the publication of the preliminary results.

This notice is in accordance with sections 751(a)(1) and 771(i)(1) of the Act.

Dated: July 29, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–20908 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072098F]

Endangered Fish and Wildlife; Draft Recovery Plan for Fin and Sei Whales

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

ACTION: Notice of availability and request for comments.

SUMMARY: The draft Recovery Plan (Plan) for the North Pacific and North Atlantic Fin whale (*Balaenoptera physalus*) and Sei whale (*Balaenoptera borealis*) stocks is available for review and comment by interested parties prior to preparing the final plan for approval and adoption by NMFS.

DATES: Comments on the draft Plan must be received on or before October 5, 1998.

ADDRESSES: Comments should be addressed to Coordinator of Large Whale Recovery Activities, Marine Mammal Division, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD 20910. Copies of the Plan for fin and sei whales are available upon request from F/PR, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. The draft plan is also available through the internet at: www.nmfs.gov/tmcintyr/prot_res.html/finsei.

FOR FURTHER INFORMATION CONTACT: Gregory K. Silber, Ph.D., NMFS, F/PR, 301/713-2322.

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973 (16 U.S.C. 1531 et *seq.*) requires that NMFS develop and implement recovery plans for the conservation and survival of threatened and endangered species under its jurisdiction unless it is determined that such plans will not promote the conservation of the species. Accordingly, NMFS provided a contract for preparation of the plan for fin and sei whales. The Plan discusses the natural history, current status, and the known and potential human impacts to fin and sei whales. Actions needed to promote the recovery of these species are identified and discussed. The final Recovery Plan will be used to direct U.S. activities, and to encourage international cooperation to promote the recovery of these endangered species.

Dated: July 27, 1998.

Hilda Diaz-Soltero,

Director, Office of Protected Resources.

[FR Doc. 98–20890 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Hearing on the Draft Environmental Impact Statement and Draft Management Plan for the Proposed Guana Tolomato Matanzas National Estuarine Research Reserve in Florida

AGENCY: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Public hearing notice.

SUMMARY: Notice is hereby given that the Sanctuaries and Reserves Division, of the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U. S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement and Draft Management Plan (DEIS/DMP) prepared on the proposed designation of the Guana Tolomato Matanzas National Estuarine Research Reserve in Florida. The DEIS/DMP addresses research, monitoring, education and resource protection needs for the proposed reserve.

The Sanctuaries and Reserves Division will hold a public hearing at 7:00 p.m. on August 31, 1998, at the St. Johns County Auditorium, Government Complex, 4020 Lewis Speedway, St. Augustine, Florida 32095.

The views of interested persons and organizations on the adequacy of the DEIS/DMP are solicited, and may be expressed orally and/or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of five (5) minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. All comments received at the hearing will be considered in the preparation of the Final Environmental Impact Statement (FEIS) and Final Management Plan.

The comment period for the DEIS/DMP will end on September 7, 1998. All written comments received by this deadline will be considered in the preparation of the FEIS.

FOR FURTHER INFORMATION CONTACT: Mr. R. Randall Schneider (301) 713–3132, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East West Highway, N/ORM2, Silver Spring, MD 20910. Copies of the Draft Environmental Impact Statement/Draft Management Plan are available upon request to the Sanctuaries and Reserves Division.

Federal Domestic Assistance

(Catalog Number 11.420 (Coastal Zone Management) Research Reserves)

Dated: July 29, 1998.

Nancy Foster, Ph.D.,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–20859 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072898C]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 10:00 a.m. on Thursday, August 20, 1998, and will conclude by 5:00 p.m. on Friday, August 21, 1998.

ADDRESSES: The meeting will be held at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEP members will meet to review available social and economic data on vermilion snapper and gag stocks, and to determine the social and economic implications of the levels of acceptable biological catches (ABC) recommended by the Council's Reef Fish Stock Assessment Panel (RFSAP). The SEP may recommend to the Council total allowable catches for the 1999 fishing year, depending on whether ABC ranges would be established for these 2 stocks by the RFSAP. The SEP will also discuss issues related to fishing communities.

Although other issues not contained in this agenda may come before the Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed in this notice.

A copy of the agenda can be obtained by contacting the Gulf Council (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 13, 1998.

Dated: July 29, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–20891 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072498H]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's Groundfish Total Catch Determination Committee will hold a public meeting.

DATES: The meeting will be held on Tuesday, August 25, 1998, beginning at 1:00 p.m. and may go into the evening until business for the day is completed. The meeting will reconvene at 8:00 a.m. on Wednesday, August 26, 1998 and continue until the agenda has been completed.

ADDRESSES: The meeting will be held in the conference room at the Pacific Fishery Management Council office, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: This ad hoc committee has been instructed to continue the investigation and development of a program to determine

total groundfish fishing mortality and discard, and to provide the information necessary to assess the effects of trip limit management. The ad hoc Committee will propose goals for a data collection program, identify funding options and impediments, and develop an overall program design. The Council has also instructed the committee to conduct a full exploration of reasonable alternatives to an observer program (e.g., full retention) and to address equity issues associated with participation of various gear groups, vessel size categories, and funding.

Although other issues not contained in this agenda may come before this group for disccussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be of formal discussion during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 29, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–20889 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 980716177–8177–01]

Presidential Decision Directive 63 on Critical Infrastructure Protection: Sector Coordinators

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice and request for expressions of interest.

SUMMARY: America's national and economic security are increasingly reliant on certain critical infrastructures and upon cyber-based information systems. Accordingly, in Presidential Decision Directive 63, the President directed the establishment of a program addressing the Nation's need for protection of its critical infrastructures. Critical infrastructures are those physical and cyber-based systems essential to the minimum operations of the economy and government. They include, but are not limited to, telecommunications, energy, banking and finance, transportation, water systems and emergency services, both governmental and private. The President has assigned to the Department of Commerce the lead agency responsibility for the information and communications (I&C) infrastructure. The Secretary of Commerce has designated the National Telecommunications and Information Administration (NTIA) to carry out those responsibilities.

Presidential Decision Directive 63 calls for representatives of the private sector, called Sector Coordinators (SCs), to represent the interests of critical infrastructure owners and operators in the development of infrastructure assurance plans. NTIA is seeking suggestions from the I&C private sector on the best way to fulfill the role of SCs in representing the I&C private sector on the Critical Infrastructure Assurance Program with the U.S. Government Sector Liaison Official (SLO), Larry Irving, Assistant Secretary of Commerce and NTIA Administrator. In addition, NTIA is seeking expressions of interest from private sector I&C entities capable of fulfilling the role of SC. In addition, comments are invited on the I&C infrastructure definitions provided in this notice.

DATES: Expressions of interest must be received by September 4, 1998.

ADDRESSES: Expressions of interest may be mailed to Irwin M. Pikus, Infrastructure Assurance Program, National Telecommunications and Information Administration (NTIA), Room 4898, U.S. Department of Commerce, 1401 Constitution Ave., NW, Washington, DC 20230, or submitted in electronic form to *infrastructure@ntia.doc.gov*. Electronic submissions should be in ASCII, WordPerfect (please specify version) or Microsoft Word (please specify version) format, and should be included as attachments to the electronic message. If you do not receive an acknowledgement of receipt, please contact *webmaster@ntia.doc.gov*, or call 202/482–2333. Please note: Comments filed electronically at the above address and any other official address will be posted on the NTIA website at *www.ntia.doc.gov/ntiahome/infrastructure/index.html*. Paper submissions should include three paper copies and a version on diskette in a format specified above.

FOR FURTHER INFORMATION CONTACT: Helen Shaw, NTIA, 202/482–2333.

SUPPLEMENTARY INFORMATION:

Background

Every sector of the U.S. economy—including manufacturing, transportation, energy and utilities, retail and wholesale trade, education, healthcare, finance and government—employs information technology and services in its operations. The U.S. communications and information infrastructure is comprised of: The physical facilities used to transmit, store, process, and display voice, data and images, as well as the information itself; applications and software to allow users to access the information; and the network standards and transmission codes that facilitate interconnection and interoperation among networks, ensuring privacy and security of the information, and network security and reliability.

Following the recommendations of a commission created under Executive Order 13010, the President directed the establishment of an interagency program addressing the Nation's need for protection of its critical infrastructures. The protection of critical infrastructures in the national interest requires a closely coordinated effort of both public and private sectors since most of the information and communications (I&C) infrastructure is owned and operated by private sector entities. Because the Secretary of Commerce designated the National Telecommunications and Information Administration (NTIA) to carry out the critical infrastructure protection responsibilities for the I&C sector, Larry Irving, Assistant Secretary for Communications and Information and Administrator of NTIA, will serve as the Sector Liaison Official (SLO) under Presidential Decision Directive (PDD–63) to work with the I&C sector.

In the spirit of public-private partnership, NTIA is seeking to identify sector coordinators (SCs) to work closely with NTIA in accomplishing the objectives of the President's program. Together, the SLO and the SCs, along with the departments and corporations they represent, will contribute to a sectoral National Infrastructure Assurance Plan by: Assessing the vulnerabilities of the sector to cyber or physical attacks; recommending a plan to eliminate significant vulnerabilities; proposing a system for identifying and preventing attempted major attacks; and developing a plan for alerting, containing, and rebuffing an attack in progress and then, in coordination with the Federal Emergency Management Agency (FEMA) as appropriate, rapidly reconstituting minimum essential capabilities in the aftermath of an attack. In addition to producing the

sectoral plan, NTIA foresees this partnership for critical infrastructure protection as an on-going, long-term dialogue, and an education and awareness program among the Federal, state and local, and private entities of the I&C sector.

The characteristics of the I&C sector create the likelihood that no single existing private sector individual or organization can serve adequately within its current mission as the I&C sector coordinator. NTIA will conduct discussions with a broad cross section of the I&C sector for the purpose of facilitating the identification of possibly more than one SC. Interested parties are invited to provide necessary information to NTIA.

NTIA is seeking suggestions on identifying SCs and expressions of interest from private sector telecommunications and information entities capable of fulfilling the role of SC in sharing responsibility for the Critical Infrastructure Assurance Program with the SLO, Assistant Secretary Larry Irving, Administrator of NTIA. The intention of the President's program is that the SLO and the SCs will cooperate in recommending the sector's infrastructure assurance plan, which will become a major element in the national plan, as well as in developing and implementing a vulnerability and awareness program for the sector.

Infrastructure Definitions

Infrastructure

An infrastructure is the framework of organizations, personnel, and systems for identifiable industries, institutions, and distribution capabilities that provide a flow of goods and services essential to the economic well-being and national security of the United States, to the smooth functioning of governments at all levels, and to society as a whole.

Information Infrastructure

For the purpose of soliciting suggestions on identifying SCs and expressions of interest from private sector telecommunications and information entities capable of fulfilling the role of SC, we define the information infrastructure as comprising procedures, personnel, organizations, and installed information technology (including hardware, software, and firmware) that acquires, stores, manipulates, disseminates, and presents information to the user, including information services, such as computer services, data processing and network services, electronic commerce services, and electronic information services. The information industry, for example, supplies multimedia information services in audio, video, and text formats via computer, fax, television, and other means. The Internet is providing new modalities for information services.

Telecommunications Infrastructure

For the purpose of soliciting suggestions on identifying SCs and expressions of interest from private sector telecommunications and information entities capable of fulfilling the role of SC, we define telecommunications as comprising any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems. The telecommunications infrastructure includes the organizations, personnel, procedures, facilities, and networks employed to transmit information by wire, radio, or fiber optics, that provide the means for supplying services, such as telephony or mass media (e.g., traditional radio or television broadcasting as well as cable and satellite broadcasting). Examples of advanced telecommunications systems include direct broadcast satellite (DBS), digital audio broadcasting (DAB), Advanced Digital Television, and Global Positioning System (GPS), used extensively for precise navigation and timing.

Role of Sector Coordinators

The SCs will have major involvement with NTIA, the SLO for the I&C sector. The SCs will also be involved with the National Coordinator and the National Infrastructure Assurance Council, and, to a lesser degree, other program organizations and U.S. Government agencies.

NTIA and Department of Commerce goals include the fullest, appropriate, legal sharing of information and views on all matters related to I&C infrastructure protection, both from government to the private sector and from the private sector to government, in a manner that appropriately protects the safety, privacy, and other legitimate concerns of all parties. This must include adequate opportunities for sharing a broad range of information, including minority and dissenting opinions, so that all pertinent information and ideas can be understood and addressed by those who may be affected.

In support of this openness, we expect and are asking entities expressing interest in serving as potential SCs to verify their understanding of the following:

—The SCs as a group will not serve in any capacity that would trigger the requirements of the Federal Advisory Committee Act;
—NTIA primarily seeks information;
—If NTIA or the Department requires advice, they expect to seek advice from individuals, especially those who have expressed interest in serving as potential SCs, and not from committees or groups;
—Potential SCs must agree not to offer group or consensus advice to U.S. Government officials; and
—The SCs will represent the views and interests of the private sector in addressing the protection of the infrastructure.

Specific responsibilities of SCs may include the following:

1. Enter into a memorandum of understanding between the private sector participants and the U.S. Government, mutually agreed to and delineating the private sector and government roles and responsibilities.

2. Collaborate with the SLO, providing information and individual advice.

3. Participate in the development of the National I&C Critical Infrastructure Protection Plan.

3.1 Establish a network of private sector stakeholders in the plan.
3.2 Meet with U.S. Government officials and private sector stakeholders.
3.3 Identify points of contact from private sector organizations.
3.4 Review interim outputs of the NTIA Planning Support Team.
3.5 Jointly (with NTIA) submit the schedule to the National Coordinator.

4. Assist in the establishment of the National Infrastructure Assurance Council (NIAC).

4.1 Identify potential panel members for NTIA's consideration.
4.2 Review NIAC recommendations.

5. Assist in the creation of the Information Sharing and Analysis Center (ISAC).

5.1 Gather ISAC information from private sector stakeholders.
5.2 Provide sector input into the design of the ISAC.

6. Assist in the conduct of special studies.

6.1 Identify private sector participants.
6.2 Review study results.

7. Assist in public outreach.

7.1 Identify best methods for outreach.
7.2 Organize private sector education efforts.

7.3 Organize selected awareness events.

8. Assist private sector to achieve infrastructure security.

8.1 Assemble private sector input.

8.2 Review proposed activities.

Identification Criteria

NTIA seeks SCs with the following characteristics. Each respondent should indicate the degree to which they or any entity or approach they are recommending are:

(a) Acceptable to a broad spectrum of the constituency of the sector;

(b) Knowledgeable about the structure and operation of the sector;

(c) Familiar with the sector's interactions with the U.S. Government and with government programs similar to the current effort;

(d) Able to articulate the issues regarding critical infrastructure protection to their constituencies with sufficient clarity and credibility to motivate positive responses to requests for information and for supporting actions;

(e) Able to develop broad support across the sector regarding infrastructure assurance matters;

(f) Sufficiently senior to interact effectively with senior U.S. Government officials; and

(g) Able to devote a substantial amount of time to this effort, particularly through the PDD–63 two-year time line for initial capability.

Shirl Kinney,

Deputy Assistant Secretary and Administrator, National Telecommunications and Information Administration.

[FR Doc. 98–20865 Filed 8–4–98; 8:45 am]

BILLING CODE 3510–60–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

The Corporation for National and Community Service (CNCS), has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Joe Zender, National Personnel Coordinator, AmeriCorps*National Civilian Community Corps (NCCC), (202) 606–5000, Extension 116. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9:00 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, N.W., Washington, D.C., 20503. (202) 395–7316, by September 4, 1998.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*NCCC Team Leader Application Form.

OMB Number: 3045–0005.

Agency Number: None.

Frequency: Annually.

Affected Public: Citizens of diverse ages and backgrounds who are committed to national service.

Number of Respondents: 500.

Estimated Time Per Respondent: Two hours.

Total Burden Hours: 1,000 hours.

Total Annualized capital/startup costs: 0.

Total Annual Cost (operating/maintaining systems or purchasing services): 0.

Description: The Team Leader Application form is completed by applicants who wish to serve as Team Leaders at AmeriCorps*NCCC regional campuses. The Corporation seeks to renew and revise the current form. When revised, the form will include discussion concerning an additional regional campus and will be used for the same purpose and in the same manner as the existing form.

Dated: July 31, 1998.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 98–20921 Filed 8–4–98; 8:45 am]

BILLING CODE 6050–28–P

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: Customer Service Evaluation Survey; DeCA Form 60–28; OMB Number 0704–0380.

Type of Request: Reinstatement.

Number of Respondents: 42,165.

Responses Per Respondent: 1.

Annual Responses: 42,165.

Average Burden Per Response: 4 minutes.

Annual Burden Hours: 2,811.

Needs and Uses: The Department of Defense Commissary Agency (DeCA) has developed the Customer Service Evaluation System (CSES) as a management tool to evaluate customer satisfaction in each commissary worldwide. This management tool uses a survey, ''Commissary Customer Service Survey,'' DeCA Form 60–28, which is designed to query commissary patrons on perceived customer satisfaction. The results will be distributed to each commissary for guidance to effectively serve patrons' needs and also to operate a more efficient and cost-effective system.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

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: July 30, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–20820 Filed 8–4–98; 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: Request for Reference; DD Form 370; OMB Number 0704–0167.

Type of Request: Reinstatement.

Number of Respondents: 43,000.

Responses Per Respondent: 1.

Annual Responses: 43,000.

Average Burden Per Response: 10 minutes.

Annual Burden Hours: 7,167.

Needs and Uses: Sections 504, 505, 508, and 12102, Title 10 U.S.C., establish minimum standards for enlistment into the Armed Forces. This information collection requirement is necessary to obtain personal reference data, in order to request a waiver, on a military applicant who has committed a civil or criminal offense and would otherwise be disqualified for entry to the Armed Forces of the United States. The DD Form 370 is used to obtain reference information evaluating the character, work habits, and attitudes of an applicant from a person of authority or standing within the community. The information collected provides the Armed Services with specific background information on an applicant. A history of criminal activity, arrests, or moral offenses is disqualifying for military service. An applicant, with such a disqualifier, is required to submit references from community leaders who will attest to his or her character, attitudes, or work habits. The DD Form 370 is the method of information collection which requests an evaluation and reference from a specific individual, within the community, who has the knowledge of the applicant's habits, behaviors, personality, and character. The information will be used to determine suitability of the applicant for military service and the insurance of a waiver for acceptance.

Affected Public: Individuals or households; Business or Other For-Profit; State, Local, or Tribal Government.

Frequency: On occasion.

Respondent's 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: July 30, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–20821 Filed 8–4–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement, Walla Walla District Dredged Material Management Study, Columbia, Snake, and Clearwater Rivers, Oregon, Washington and Idaho

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Walla Walla District, intends to prepare a Draft Environmental Impact Statement (DEIS) for dredging, dredged material disposal activities, and measures to reduce dredging requirements within the navigable waterways of the Walla Walla District. This EIS will cover a twenty year period that will being upon completion and approval of the final EIS and the Dredged Material Management Plan (DMMP). The study reach considered includes Lake Wallula above McNary Dam on the Columbia River in Oregon and Washington; the four lower Snake River reservoirs extending from the mouth of the Snake River upstream to the communities of Lewistown, Idaho, and Clarkston, Washington; and the lower 2 miles of the Clearwater River from its confluence with the Snake River at Lewiston upstream to the U.S. Highway 12 Bridge. The DEIS will evaluate the environmental effects of dredging and dredged material disposal activities in addition to measures proposed to reduce dredging requirements within the study reach over the twenty-year period. Specific disposal sites will be identified and initial environmental compliance actions, including characterization of the material to be dredged, will be performed in an effort to reduce lead time required prior to actual dredging activity. Beneficial uses of dredged material will be considered and the environmental effects evaluated.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Jack Sands, Study Manager, Walla Walla District Corps of Engineers, CENWW–PD–EP, 201 North Third Avenue, Walla Walla, WA 99362, phone (509) 527–7287 or Ms. Sandra Simmons, NEPA Coordinator, Walla Walla District Corps of Engineers, CENWW–PD–EC, 201 North Third Avenue, Walla Walla, WA 99362, phone (509) 527–7265.

SUPPLEMENTARY INFORMATION: By memorandum dated June 5, 1995, form Corps Headquarters, Corps District offices were directed to prepare a Dredged Material Management Plan (DMMP) for all navigation projects including components of the inland waterway system. The DMMP will define the procedure for the next twenty-year period for disposing of dredged material removed for those reaches of the Columbia, Snake and Clearwater Rivers that make up that portion of the Columbia/Snake Rivers Inland Navigation Waterway withing the Walla Walla District Boundaries.

The DEIS developed during the planning study to define the DMMP will include the following within its range of alternatives:

I. Upland Disposal of Dredged Material
II. In-Water Disposal of Dredged Material
III. Various Beneficial Uses of Dredged Material
  A. Land Fill
  B. Beach Replenishment
  C. Fish and Wildlife Habitat Creation and Restoration
  D. Recreation
IV. Measures to Reduce Dredging Requirements
  A. In-Stream Structural Components to Redirect Flow & Increase Stream Velocities
  B. Upland Land Treatment Programs
  C. Modification of Project Pool Elevations and/or Flow Releases During Severe Runoff Events
  D. Modification of the Height of the Levees at Lewiston, Idaho
V. No Action

The Corps plans to have formal public scoping meetings in med- to late-September 1998 with times and exact dates yet to be determined. The Corps currently plans to have meetings in Lewiston, Idaho at the upstream end of the study reach, and in Pasco, Washington, near the downstream end of the study reach.

The DEIS should be avaialbe for public review in September or October 1999.

William E. Bulen, Jr.,

Commanding.

[FR Doc. 98–20863 Filed 8–4–98; 8:45 am]

BILLING CODE 3710–GC–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Grant of Exclusive License

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army, U.S. Army Corps of Engineers, announces the general availability of exclusive, or partially exclusive licenses under the following patents. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

Patent No.	Title	Issue date
5,567,078	Method for Forming a Sloped Face Ice Control Surface	10/22/96
5,567,950	Bispectral Lane Marker	10/22/96
5,585,799	Microwave Doppler Radar System For Detection and Kinematic Measurements of River Ice	12/17/96
5,588,783	Soil Reinforcement With Adhesive-Coated Fibers	12/31/96
5,595,561	Low-Temperature Method for Containing Thermally Degradable Hazardous Wastes	1/21/97
5,601,906	Geosynthetic Barrier to Prevent Access to Contaminated Sediments	2/11/97
5,605,570	Alkali-Activated Glassy Silicate Foamed Concrete	2/25/97
5,605,744	Laminated Paper Glass Camouflage	2/25/97
5,609,418	Clapeyron Thermometer	3/11/97
5,614,659	Pore-Air Pressure Measurement Device For Use in High Shock Environments	3/25/97
5,614,893	Ground Condition Monitor	3/25/97
5,624,492	Heat Treatment in The Control of The Setting of Cement	4/29/97
5,634,742	Bulkhead For And Method For Dry Isolation of Dam Gates	6/3/97
5,635,710	Subsurface Penetrometer Radiation Sensor Probe And System	6/3/97
5,639,195	Helical Panel Fasteners	6/17/97
5,644,314	Portable Geophysical System Using an Inverse Collocation-Type Methodology	7/1/97
5,647,927	Central Tire Inflation Controller	7/15/97
5,648,724	Metallic Time-Domain Reflectrometry Roof Moisture Sensor	7/15/97
5,651,200	Debris Exclusion Devices For an Augerhead Type Hydraulic Dredge System	7/29/97

ADDRESSES: Humphreys Engineer Center Support Activity, Office of Counsel, 7701 Telegraph Road, Alexandria, Virginia 22315–3860.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice. However, no exclusive or partially exclusive license shall be granted until November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia L. Howland (703) 428–6672 or Alease J. Berry, (703) 428–8160.

SUPPLEMENTARY INFORMATION: USP 5,567,078 is a method of controlling a breakup ice run without interfering with the natural river flow, thus reducing the possibility of flooding caused by the break up of river ice.

USP 5,567,950 is a passive, rigid, durable, and inexpensive lane marker device that allows for remote observations of visual and infrared electromagnetic signatures.

USP 5,585,799 is a system, unaffected by darkness or low visibility conditions, for detecting river ice motions and determining river ice kinematic measurements without the need for a human observer.

USP 5,588,783 is an improved method of soil stabilization utilizing a variety of natural or synthetic fibers and adhesive coating for use in such things as berms or embankments.

USP 5,595,561 is a method of producing a concrete wasteform with an aggregate comprised of pellets formed from a waste-polymer mixture which are treated with an epoxy coating and a silicate-based powder.

USP 5,601,906 is a method and apparatus to prevent wildlife from ingesting contaminated sediments in wetlands and other areas where sediment forms part of the natural setting for the wildlife, avoiding the destruction or alteration of the natural habitat, or the construction of landfill liners or caps.

USP 5,605,570 is a composition and method of utilizing blast-furnace slag waste products or other matallurgical slags, sodium peroxide, and water to produce a foamed concrete that is strong, lightweight, and which hardens and gains strength rapidly.

USP 5,605,744 is a material and method of composing rigid composite laminates of paper and fibrous glass layers for use in camouflage, concealment and deception.

USP 5,609,418 is a high resolution solid/liquid, pressure responsive thermometer which measures the large pressure changes which result when a mixture of a liquid and its solid are subjected to a temperature change below the equilibrium melting temperature of the bulk material.

USP 5,614,659 is a device for accurately and repeatedly measuring pore-air pressure in the vicinity of an explosive blast through the use of a shock resistant housing containing a plurality of pressure sensing ports, with a filter mounted in each port and a sensor within the housing for sensing the air pressure at each of the ports.

USP 5,614,893 is a device for obtaining collecting, and transmitting data indicative of the electromagnetic properties of the surrounding earth which can be used to monitor the structural integrity of earthen works, such as levees, to determine the movement of contaminants through a

ground area, to determine contaminants in landfills, dredge materials, or groundwater, or to detect the movement of heavy equipment over the ground.

USP 5,624,492 is a method of slowing down the hardening of cement without using chemical retarders by heat treating the cement to form an amorphous, glassy shell on the outside of the cement particles.

USP 5,634,742 is a new type of bulkhead for use in the repair and maintenance of dam gates which can easily be assembled and floated into position adjacent to a dam gate.

USP 5,635,710 is an improved device for measuring radiation in subsurface formations by utilizing a detachable sleeve to strengthen and protect the sensor probe, and once the probe has been inserted into the subsurface, the detachable sleeve allows for more accurate measurement of radiation levels.

USP 5,639,195 is a novel fastener which can be used either to fasten parallel spaced panels together and maintaining a predetermined spacing between panels, or to fasten panels parallel to walls while maintaining a predetermined space between the panel and the wall.

USP 5,644,314 is a portable ground penetrating high resolution radar system that can perform target and media identification in real-time utilizing a digitally controlled phase shifter.

USP 5,647,927 is an automated system which adjusts the air pressure in the tires of a vehicle to optimize fuel consumption, tire wear, and road deterioration.

USP 5,648,724 is an apparatus for detecting the presence, location, and extent of moisture in a roof by transmitting an electrical pulse through a transmission line embedded in the roof and using a signal analyzer to interpret the transmitted pulses.

USP 5,651,200 is an improved small augerhead type dredge system which reduces clogging of the system's pump impeller intake eye by utilizing a cutter/grate device to prevent ingestion of debris into the system's pump by cutting up vegetation and excluding debris prior to entry into the pump's impeller eye, and, by utilizing a transition box structure behind the augerhead that has a back-flush and a manual clean-out box.

Applications for an exclusive or partially exclusive license should contain the information set forth in 37 CFR 404.8. Applications will be evaluated utilizing the following criteria:

(1) Ability to manufacture and market the technology; (2) Manufacturing and marketing capability; (3) Time required to bring technology to market and production rate; (4) Royalties; (5) Technical capabilities; and, (6) Small Business status.

Gregory D. Showalter,

Army Federal Register Liaison Officer

[FR Doc. 98–20862 Filed 8–4–98; 8:45 am]

BILLING CODE 3710–92–P

DELEWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 12, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 10 a.m. in the River Run Meeting Room of the West Branch Angler & Sportsman's Resort, Faulkner Road, Deposit, New York.

An informal conference among the Commissioners and staff will be held on Tuesday, August 11, 1998 at 1:30 p.m. at the same location at which status reports on Delaware River fisheries will be presented by representatives of the U.S. Fish and Wildlife Service and state fisheries management agencies.

In addition to the subjects listed below which are scheduled for the August 12 public hearing, the Commission will also address the following: Minutes of the June 24, 1998 business meeting; announcements; General Counsel's report; report on Basin hydrologic conditions; status of compliance—Evansburg Water Company; and public dialogue.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Holdover Project: Evansburg Water Company D–96–57 CP.* A ground water withdrawal project to supply up to 0.56 million gallons (mg)/30 days of water to the applicant's Perkiomen Division distribution system from Well No. 202, and to increase the existing withdrawal limit of 5.5 mg/30 days from all wells to 6.06 mg/30 days. The project is located in Perkiomen Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area. This hearing continues that of June 24, 1998.

2. *Mobil Oil Corporation D–96–65.* A ground water withdrawal project to withdraw up to 40 mg/30 days of water as part of the applicant's ground water remediation program and process water supply from new Well Nos. RW–22, RW–23, RW–24, and PW–50 and to retain the existing withdrawal limit from all wells of 150 mg/30 days. The project is located in Greenwich Township, Gloucester County, New Jersey.

3. *Floyd G. Hersh, Inc. D–98–7.* A ground water withdrawal project to supply up to 7.5 mg/30 days of water to the applicant's golf course irrigation system from new Well No. 1, and to limit the withdrawal from all wells to 7.5 mg/30 days. The project is located in Marlborough Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Evansburg Water Company D–98–12 CP.* A resolution to extend approval of Docket No. D–98–12 CP, which granted temporary approval for the operation of Well No. 102 to serve the applicant's Evansburg Division distribution system in Lower Providence Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Merck & Company, Inc. D–98–14.* A ground water withdrawal project to withdraw up to 12.2 mg/30 days as part of the applicant's ground water remediation program and process water supply from new Well Nos. 11A, 14 and 15, and to increase the existing withdrawal limit from all wells from 40 mg/30 days to 45 mg/30 days. The project is located in Upper Gwynedd Township, Montgomery County in the Southeastern Pennsylvania Ground Water Protected Area.

6. *Township of Florence D–98–18 CP.* A project to upgrade and expand the applicant's existing municipal sewage treatment plant (STP) from 1.5 million gallons per day (mgd) average monthly flow to 2.5 mgd. The STP is located on Front Street in Florence Township, Burlington County, New Jersey and will continue to discharge to the Delaware River in Water Quality Zone 2. The STP will continue to serve Florence Township.

7. *Honey Brook Golf Club D–98–28.* A ground water withdrawal project to supply up to 10.37 mg/30 days of water to the applicant's irrigation system from new Well No. PW–1, and to limit the withdrawal from all wells to 10.37 mg/30 days. The project is located in Honey Brook Township, Chester County, Pennsylvania.

8. *Sun Pipe Line Company D–98–35.* A project to construct a petroleum pipeline under Jacobs Creek in Ewing

and Hopewell Townships, Mercer County, New Jersey, to replace an existing deteriorating pipeline stream crossing. The new steel pipeline crossing will be 14 inches in diameter and approximately 250 feet long, and will be excavated four feet under the existing stream bed, at a point approximately 1,500 feet west of the intersection of Jacobs Creek and Bear Tavern Roads. The pipeline crossing is part of maintenance work on the applicant's interstate petroleum pipeline system.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Dated: July 28, 1998

Susan M. Weisman,

Secretary.

[FR Doc. 98–20846 Filed 8–4–98; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–115–A]

Application To Export Electric Energy; Enron Power Marketing, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Application.

SUMMARY: Enron Power Marketing, Inc. has applied for renewal of its authority to transmit electric energy from the United States to Canada.

DATES: Comments, protests or requests to intervene must be submitted on or before September 4, 1998.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On September 26, 1996, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized Enron Power Marketing, Inc. (Enron) to transmit electric energy from the United States to Canada as a power marketer using the electric transmission facilities of Basin Electric Corporation, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power Company, Minnkota Power, New York Power Authority, Niagara Mohawk Power Company, Northern States Power, and Vermont Electric Transmission Company. The term of the authorization was for a period of two years and will expire on September 26, 1998. On July 23, 1998, Enron filed an application with FE for renewal of this export authority and requested that the Order be issued for a 5-year term.

DOE notes that the circumstances described in this application are virtually identical to those for which export authority had previously been granted in FE Order EA–115. Consequently, DOE believes that it has adequately satisfied its responsibilities under the National Environmental Policy Act of 1969 through the documentation of a categorical exclusion in the FE Docket EA–115 proceeding.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on Enron's request to export to Canada should be clearly marked with Docket EA–115–A. Additional copies are to be filed directly with David B. Ward, Ward & Anderson, P.C., 1000 Thomas Jefferson Street, NW, Suite 503, Washington, DC 20007 *and* Christi L. Nicolay, Enron Corp., 1400 Smith Street, Houston, TX 77251–1188.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on July *29,* 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 98–20892 Filed 8–4–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Record of Decision for the Department of Energy's Waste Management Program: Treatment of Non-wastewater Hazardous Waste

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: The Department of Energy's (DOE) Final Waste Management Programmatic Environmental Impact Statement (WM PEIS) (May 1997) analyzed alternatives for the annual treatment of approximately 3,440 metric tons of non-wastewater hazardous waste that is currently being transported to commercial facilities for treatment. DOE has decided to continue to use off-site facilities for the treatment of major portions of the non-wastewater hazardous waste generated at DOE sites, based in part on analyses in the WM PEIS. The Oak Ridge Reservation (ORR) in Tennessee and the Savannah River Site (SRS) in South Carolina will treat some of their own non-wastewater hazardous waste on-site, where capacity is available in existing facilities and where this is economically favorable. This decision does not involve any transfers of non-wastewater hazardous waste among DOE sites.

This decision differs slightly in two respects from the Preferred Alternative (the No Action Alternative) identified in the WM PEIS. First, in the Preferred Alternative (and all other alternatives analyzed), DOE's Idaho National Engineering and Environmental Laboratory (INEEL) was assumed to treat some of its own non-wastewater hazardous waste on site. However, all non-wastewater hazardous waste at INEEL is currently treated at off-site facilities, and DOE's decision is to continue this practice for the site. Second, the Preferred Alternative did not assume any on-site treatment at SRS. However, treatment of non-wastewater hazardous waste at SRS was analyzed in the Decentralized Alternative (as was on-site treatment of non-wastewater hazardous waste at ORR). Since publication of the WM PEIS, the Consolidated Incineration Facility has become available at SRS for the treatment of some of the site's non-wastewater hazardous wastes. Use of

this facility is economically favorable for treating some of the site's non-wastewater hazardous waste. The potential health and environmental impacts of the No Action and Decentralized Alternatives are small, with negligible differences between these two alternatives.

FOR FURTHER INFORMATION CONTACT: Copies of the WM PEIS and this Record of Decision are available in DOE public reading rooms and selected libraries located across the United States. A list of the public reading rooms at which the WM PEIS and this Record of Decision are available can also be accessed on the DOE Office of Environmental Management's World Wide Web site at http://www.em.doe.gov/em30/.

To request copies of the WM PEIS, this Record of Decision, or a list of the reading rooms and public libraries, please write or call: The Center for Environmental Management Information, P.O. Box 23769, Washington, DC 20026–3769. Telephone: 1–800–736–3282 (in Washington, DC: 202–863–5084)

For further information on DOE's national Waste Management Program, the WM PEIS, or this Record of Decision, please write or call: Mr. Jay Rhoderick, Acting Director, Office of Planning and Analysis (EM–35), United States Department of Energy, Office of Environmental Management, 20400 Century Boulevard, Germantown, MD 20874. Telephone: (301) 903–7211.

For general information on the U.S. Department of Energy National Environmental Policy Act (NEPA) process, please write or call: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), United States Department of Energy, Office of Environment, Safety, and Health, 1000 Independence Avenue, S.W., Washington, DC 20585–0119. Telephone: (202) 586–4600, or leave a message at (800) 472–2756

SUPPLEMENTARY INFORMATION:

Background

The WM PEIS analyzed alternatives for the annual treatment of approximately 3,440 metric tons of non-wastewater hazardous waste that is currently being transported to commercial facilities for treatment. DOE prepared this Record of Decision pursuant to the Council on Environmental Quality's regulations for implementing NEPA (40 CFR Parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR Part 1021). This Record of Decision is based in part on analyses contained in the WM PEIS, DOE/EIS–0200–F. DOE published a notice of its intent to prepare the WM PEIS in the **Federal Register** on October 25, 1990. DOE issued a Draft WM PEIS on September 22, 1995, and hearings were held during the public comment period, which closed on February 19, 1996. All public comments were addressed in the Final WM PEIS, which DOE issued on May 30, 1997.

Purpose and Need for Agency Action

DOE needs to manage (*i.e.*, treat, store, and dispose of) its wastes in ways that will maintain safe, efficient, and cost-effective control of these wastes; comply with applicable Federal and state laws; and protect public health and the environment. The WM PEIS evaluates the potential environmental impacts of managing five types of waste generated by defense and research activities at DOE sites around the United States. The five waste types are: mixed low-level radioactive waste, low-level radioactive waste, transuranic waste, high-level radioactive waste, and non-wastewater hazardous waste. The WM PEIS examines, from a nation-wide perspective, the potential impacts of managing these waste types and the cumulative impacts of waste management, transportation and other ongoing and reasonably foreseeable activities.

This Record of Decision applies only to the treatment of non-wastewater hazardous waste as analyzed in the WM PEIS, and addresses the extent to which the Department will continue to rely on off-site treatment of non-wastewater hazardous waste. More specifically, the WM PEIS analyzed alternatives for whether to thermally [1] treat non-wastewater hazardous waste on DOE sites or to continue to use off-site treatment. The Appendix to this Record of Decision identifies the DOE sites evaluated in the WM PEIS as potential locations for waste management operations, and the sites analyzed that have hazardous waste.

On January 23, 1998, the Department published (63 FR 3629) a Record of Decision for the treatment and storage of its transuranic waste based in part on analyses in the WM PEIS. Records of Decision for the three other waste types analyzed in the WM PEIS will be issued in due course.

Hazardous Waste Treatment

Hazardous waste, regulated under the Resource Conservation and Recovery Act (RCRA), is non-radioactive waste exhibiting the characteristics of ignitability, corrosivity, reactivity, or toxicity as defined by the Environmental Protection Agency's (EPA) regulations implementing RCRA, or waste that EPA has listed under RCRA as hazardous waste. In addition, DOE manages some state-regulated hazardous wastes and hazardous wastes regulated under the Toxic Substances Control Act, which, for the purposes of this decision, are considered hazardous wastes. The hazardous waste covered by this decision is generated as a result of research and development activities and nuclear weapons production.

According to the WM PEIS analyses, most of DOE's hazardous waste is wastewater containing less than a 1% concentration of organic hazardous waste. The Department currently treats its wastewater hazardous waste on-site, and will continue to do so in the future. This waste is not difficult to treat and is not cost-effective to transport off-site for treatment.

DOE's non-wastewater hazardous waste consists primarily of sludges, solids and organic liquids (water containing higher concentrations of organic hazardous waste than wastewater). DOE currently ships a large portion of its non-wastewater hazardous waste to off-site commercial facilities for treatment as well as disposal (commercial facilities take title to the waste and, after treatment, dispose of it in a manner consistent with applicable state and federal laws and regulations). In addition, some DOE sites use on-site non-thermal treatment capability for non-wastewater hazardous waste to meet applicable regulatory requirements.

Alternatives Considered for Treatment of Non-wastewater Hazardous Waste

In the WM PEIS, the term ''alternative'' refers to a nationwide configuration of sites for treating, storing, or disposing of a waste type. The WM PEIS analyzed a No Action alternative, a Decentralized and two Regionalized alternatives under which DOE would, to varying extents, seek permits for, construct, and use facilities at DOE sites for treating non-wastewater hazardous wastes generated at DOE sites. The potential environmental impacts associated with the use of off-site commercial facilities were also analyzed in the WM PEIS. The alternatives analyzed were as follows.

No Action Alternative—treatment of 3% of non-wastewater hazardous waste at 2 DOE sites (INEEL and ORR); 97% at commercial facilities. The analysis of a ''no action'' alternative, required by Council on Environmental Quality regulations implementing NEPA (40 CFR Parts 1500–1508) and DOE NEPA

[1] For purposes of this discussion, ''thermal treatment'' means incineration.

implementing procedures (10 CFR Part 1021), provides an environmental baseline against which the impacts of other alternatives can be compared. Under this alternative, all non-wastewater hazardous waste would continue to be treated off-site at commercial facilities, except at INEEL and ORR, where a small proportion of those sites non-wastewater hazardous waste would be treated in existing on-site facilities.

Decentralized Alternative—treatment of 9% of non-wastewater hazardous waste at 3 DOE sites (INEEL, ORR and SRS); 91% at commercial facilities. Under this alternative, DOE would utilize thermal treatment technology at the INEEL, ORR, and SRS, to treat organic non-wastewater hazardous wastes from these 3 sites and continue the use of commercial treatment facilities to treat all other non-wastewater hazardous waste.

Regionalized Alternative 1—treatment of 50% of non-wastewater hazardous waste at 5 DOE sites (INEEL, ORR, SRS, Hanford, and the Los Alamos National Laboratory); 50% at commercial facilities. Under this alternative, 5 DOE sites would use thermal treatment and organic removal/recovery technologies to treat 50% of the non-wastewater hazardous waste from all sites analyzed in the WM PEIS. These 5 sites are: the Hanford Site, INEEL, the Los Alamos National Laboratory, ORR, and SRS. DOE would use commercial facilities for the remaining 50% of its non-wastewater hazardous treatment needs.

Regionalized Alternative 2—treatment of 90% of non-wastewater hazardous waste at 2 DOE sites (INEEL and ORR); 10% at commercial facilities. Under this alternative, facilities at INEEL and ORR would use organic treatment and deactivation/neutralization for the treatment of 90% of the non-wastewater hazardous waste from all sites analyzed in the WM PEIS. DOE would continue to use commercial facilities for metal recovery and recycling, battery recycling, and stabilization of the remaining 10% of DOE's non-wastewater hazardous waste.

Environmentally Preferable Alternative

The WM PEIS analyzed a number of potential impacts, including those on human health, air and water resources, ecological resources, land use, and site infrastructures for each of the major sites at which waste management facilities might be located. All potential impacts identified in the WM PEIS were considered in DOE's selection of the preferred alternative and its decision regarding treatment of non-wastewater hazardous waste.

Potential health and environmental impacts for all alternatives are generally low. The No Action and Decentralized Alternatives have slightly lower transportation and air quality impacts than the regionalized alternatives and are therefore considered to be environmentally preferable.

Decision: Treatment of Non-wastewater Hazardous Waste

The Department has decided to continue to use off-site facilities for the treatment of major portions of the non-wastewater hazardous waste generated at DOE sites. ORR and SRS will treat some of their own non-wastewater hazardous waste on-site, where capacity is available in existing facilities and where this is economically favorable. This decision does not involve any transfers of non-wastewater hazardous waste among DOE sites. The potential health and environmental impacts of this decision are identified in the Decentralized Alternative analyzed in the WM PEIS.

Basis for the Decision

The potential health, environmental, and cost impacts of continued use of off-site commercial facilities for treating DOE's non-wastewater hazardous waste are low, and this decision fully meets DOE's regulatory responsibilities for the safe management of its non-wastewater hazardous wastes. The additional potential costs of expanding existing or constructing new on-site capabilities are not justified in view of the current availability of DOE and commercial facilities to treat this waste. Commercial facilities used for treating non-wastewater hazardous waste from DOE sites are required to meet all applicable regulatory requirements.

Differences From the Preferred Alternative in the WM PEIS

This decision differs slightly in two respects from the Preferred Alternative (the No Action Alternative) identified in the WM PEIS. First, in the Preferred Alternative (and all other alternatives analyzed), INEEL was assumed to treat some of its own non-wastewater hazardous waste on site. In the Preferred Alternative, the amount of waste assumed for on-site treatment at INEEL was less than 3% of the total annual volume of non-wastewater hazardous waste from the 11 DOE sites that generated over 90% of the annual total volume analyzed in the WM PEIS. However, all non-wastewater hazardous waste at INEEL is currently treated at off-site facilities, and DOE's decision is to continue this practice for the site. Second, the No Action alternative did not assume any on-site treatment at SRS. However, treatment of non-wastewater hazardous waste at SRS was analyzed in the Decentralized Alternative. Since publication of the WM PEIS, the Consolidated Incineration Facility has become available at SRS for the thermal treatment of some of the site's non-wastewater hazardous wastes. Use of this facility is economically favorable for treating some of the site's non-wastewater hazardous waste.

Mitigation

Chapter 12 of the WM PEIS describes measures that DOE takes in order to minimize the impacts of its waste management activities. Mitigation measures are an integral part of the Department's operations, so as to avoid, reduce, or eliminate potentially adverse environmental impacts. Some of the more important mitigation measures that DOE will continue to utilize in its management of hazardous waste are:

- Pollution prevention plans;
- Reuse of existing facilities wherever feasible rather than construction of new facilities;
- Occupational safety and health training to ensure that workers understand operational safety procedures.

Site-specific, non-routine mitigation measures may also be identified and implemented in the course of further decision making under site-specific NEPA reviews.

As provided by 10 CFR § 1021.315, the Department may revise this Record of Decision in the future as long as the potential environmental impacts associated with the revised decision have been adequately analyzed by existing NEPA documents. Revision of this Record of Decision could occur, for example, as new technologies or additional cost information becomes available.

This Record of Decision will be implemented in compliance with all applicable Federal, State, and local requirements.

Issued in Washington, DC this 30th day of July, 1998.

James M. Owendoff,

Acting Assistant Secretary for Environmental Management.

APPENDIX.—SITES EVALUATED IN THE WM PEIS

Abbreviation	Full name	State	Major site [1]	Hazardous waste site [2]
ANL–E	Argonne National Laboratory—East	IL	Yes	Yes.
BNL	Brookhaven National Laboratory	NY	Yes	No.
FEMP	Fernald Environmental Management Project	OH	Yes	No.
Fermi	Fermi National Accelerator Laboratory	IL	No	Yes.
Hanford	Hanford Site	WA	Yes	Yes.
INEEL	Idaho National Engineering and Environmental Laboratory	ID	Yes	Yes.
KCP	Kansas City Plant	KS	No	Yes.
LLNL	Lawrence Livermore National Laboratory	CA	Yes	Yes.
LANL	Los Alamos National Laboratory	NM	Yes	Yes.
NTS	Nevada Test Site	NV	Yes	No.
ORR	Oak Ridge Reservation	TN	Yes	Yes.
PGDP	Paducah Gaseous Diffusion Plant	KY	Yes	No.
Pantex	Pantex Plant	TX	Yes	Yes.
PORTS	Portsmouth Gaseous Diffusion Plant	OH	Yes	No.
RFETS	Rocky Flats Environmental Technology Site	CO	Yes	No.
SNL/NM	Sandia National Laboratories—New Mexico	NM	Yes	Yes.
SRS	Savannah River Site	SC	Yes	Yes.
WIPP	Waste Isolation Pilot Plant	NM	Yes	No.
WVDP	West Valley Demonstration Project	NY	Yes	No.

[1] Sites analyzed in the WM PEIS as potential locations for waste management facilities for one or more types of waste.
[2] Sites analyzed in the WM PEIS alternatives for the treatment of non-wastewater hazardous waste. These sites generated over 90% of the annual total volume analyzed in the WM PEIS.

[FR Doc. 98–20895 Filed 8–4–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Chicago Operations Office; Office of Industrial Technologies (OIT); Notice of Solicitation for Financial Assistance Applications for Sensor and Control Technologies for Industrial Manufacturing Applications

AGENCY: Department of Energy.

ACTION: Notice of solicitation availability.

SUMMARY: The Department of Energy (DOE) announces its interest in receiving applications for federal assistance to assist U.S. manufacturing industries with the research and development of advanced sensor and control technologies which: (1) Meet the high priority needs identified in the six Industries of the Future (IOF) technology roadmaps, one each for aluminum, chemical, forest products, glass, metalcasting, and steel; (2) have wide applicability across the IOF industries; and (3) improve energy efficiency and productivity as well as reduce the impact of the U.S. manufacturing industries on the environment through a reduction in the generation of wastes and pollutants. The financial assistance applications should clearly describe how the above mentioned research and development objectives will be achieved and must provide both budgetary and time estimates for the period commencing with initial research and development (R & D) continuing through commercialization of technologies.

DATES: The complete solicitation document will be available on or about August 17, 1998, on the Internet by accessing the DOE Chicago Operations Office Acquisition and Assistance Group Home Page at http://www.ch.doe.gov/business/ACQ.htm under the heading ''Current Solicitations'', Solicitation No. DE–SC02–99CH10944. Applications are due on or about October 1, 1998. Awards are anticipated by December 1, 1998.

ADDRESSES: Completed applications referencing Solicitation No. DE–SC02–99CH10944 must be submitted to: U.S. Department of Energy, Chicago Operations Office, Attn: Denise Clarke, Bldg. 201, Room 3D–04, 9800 South Cass Avenue, Argonne, IL 60439–4899.

SUPPLEMENTARY INFORMATION: DOE's Office of Industrial Technology (OIT) supports industry efforts to increase energy efficiency, reduce waste, and increase productivity. OIT's goal is to accelerate research, development, demonstration and commercialization of energy efficient, renewable and pollution prevention technologies benefitting industry, the environment, and U.S. energy security.

As a result of this solicitation, DOE anticipates providing a total of $1 million dollars in FY 99 for the award of up to four cooperative agreements ranging from one to three years in duration. DOE anticipates funding projects at the same or similar levels in the outyears, however, DOE funding for the outyears is yet to be determined. For multi-year projects, there will be an evaluation of the project's progress near the end of each year to determine whether to continue, redirect, or discontinue funding the project.

Any non-profit or for-profit organization, university, or other institution of higher education, or non-federal agency or entity is eligible to apply. DOE National Laboratory participation as a subcontractor is limited to 30% of the total project costs for each budget period. A minimum non-federal cost-sharing commitment of 20% of the total project cost for each budget period is required.

FOR FURTHER INFORMATION CONTACT: Denise Clarke at (630) 252–2107, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439–4899; by facsimile at (630) 252–5045; or by electronic mail at denise.clarke@ch.doe.gov.

Issued in Argonne, Illinois on July 28, 1998.

John D. Greenwood,

Acquisition and Assistance Group Manager.

[FR Doc. 98–20725 Filed 8–4–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–546–000]

Columbia Gas Transmission Corporation; Notice of Site Visit

July 30, 1998.

On August 12 and 13, 1998, the Office of Pipeline Regulation staff will conduct a site visit, with representatives of Columbia Gas Transmission Corporation, of the RIPX Project in Kanawha and Jackson Counties, West Virginia.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–20850 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–358–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

July 30, 1998.

Take notice that on July 28, 1998, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A Twenty-First Revised Sheet No. 4 and Eleventh Revised Sheet No. 4a.

PG&E GT–NW states that these tariff sheets are filed to comply with the Commission's January 12, 1995 Order in Docket No. CP93–618 that PG&E GT–NW update the rates for service on its Medford and Coyote Springs Extensions to reflect the capital costs approved in its rate proceeding in Docket No. RP94–149. PG&E GT–NW requests that the above-referenced tariff sheets become effective September 1, 1998.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers and interested state regulatory agencies.

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 as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–20856 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–685–000]

Texas Gas Transmission Corporation; Notice of Application

July 30, 1998.

Take notice that on July 23, 1998, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 20008, Owensboro, Kentucky 42304, filed an application with the Commission in Docket No. CP98–685–000 pursuant to Section 7 of the Natural Gas Act (NGA) for permission and approval to abandon by sale an offshore Louisiana gas supply lateral to Union Oil Company of California (Unocal), all as more fully set forth in the request which is open to the public for inspection.

Texas Gas proposes to abandon by sale for $28,000 to Unocal approximately 0.73 miles of 6-inch diameter pipe and appurtenant facilities in Eugene Island Blocks 276C and 259, offshore Louisiana. Texas Gas, as a former natural gas merchant, states that it originally constructed the pipe to attach natural gas supplies in the Eugene Island area to the Bluewater System for ultimate delivery to Texas Gas. Texas Gas also states that it no longer has a firm transportation commitment involving the subject pipe and does not need the pipe anymore.

Texas Gas states that its proposed transfer of the pipe to Unocal would have no adverse effect upon Texas Gas' existing customers. Texas Gas uses the subject pipe to provide interruptible transportation service to Unocal, currently the only customer served via the pipe.

Texas Gas also petitions for a declaratory order by which the Commission disclaims its jurisdiction over the pipeline facilities Texas Gas proposes to abandon by sale of Unocal. Texas Gas indicates that after it transfers the facilities to Unocal that Unocal would provide nonjurisdictional service to any other shippers on a non-discriminatory basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 20, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–20852 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–686–000]

Williams Gas Pipeline Central, Inc.; Notice of Request Under Blanket Authorization

July 30, 1998.

Take notice that on July 23, 1998, Williams Gas Pipelines Central, Inc., (Applicant), One Williams Center, P.O. Box 3288, Tulsa, Oklahoma, 74101–0330, filed in Docket No. CP98–686–000 a request pursuant to Sections 157.205, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216) for approval to abandon by reclaim facilities installed to receive transportation gas from TEC Pipeline, L.L.C., (TEC) located in Nowata County, under Applicant's blanket certificate issued in Docket Nos. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant asserts that the metering facilities for which it now seeks abandonment authorization are owned by TEC and that by letter dated March 19, 1998, TEC has agreed to the proposed abandonment. Applicant states that the estimated cost to abandon these facilities is $272.

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 Natural 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. 98–20853 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–637–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed VNG Replacement Project and Request for Comments on Environmental Issues

July 30, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Columbia Gas Transmission Corporation's (Columbia) proposal to construct about 6.9 miles of 20-inch-diameter pipeline to replace an equivalent length of 12-inch-diameter pipeline on its Line VM–108 in Sussex County, Virginia.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Columbia states that the proposed replacement is primarily due to the age and condition of the old pipeline. Also, the proposed replacement would allow Columbia to transport the additional storage service volume to Virginia Natural Gas, Inc. in Norfolk, Virginia.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

[1] Columbia Gas Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Summary of the Proposed Project

Columbia seeks authorization for the following:

(1) Construct approximately 6.9 miles of 20-inch-diameter pipeline to replace an equivalent length of 12-inch-diameter pipeline on Line VM–108 in Sussex County, Virginia;

(2) Increase the deliverability of its existing Glady Storage Field by 14,100 Mcfd in Randolph and Pocohantas Counties, West Virginia by reworking two wells; and

(3) Reacquire from Transco Energy Marketing Company certain pipeline capacity on its Solo Pipeline between Emporia, Virginia and Petersburg, Virginia, and on Transcontinental Gas Pipe Line Corporation's pipeline from Boswells Tavern, Virginia, to Emporia, Virginia.

The location of the project facilities is shown in appendix 1.

Land Requirements for Construction

Construction of the proposed facilities would require about 109 acres of land. Following construction, about 58 acres would be maintained as new permanent right-of-way. The remaining 51 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.

- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries. and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section on page 4 of this notice.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues may be changed based on your comments and our analysis.

- The project would cross two perennial streams classified as warm water fisheries which contain wild trout.
- Four federally listed endangered or threatened species may occur in the proposed project area.
- Prehistoric and historic archeological sites and landscape with historic structures may be affected.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes, and measures to avoid or lessen environmental impact). The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2.
- Reference Docket No. CP98–637–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 31, 1998.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–20851 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

July 30, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No:* 346–033.

c. *Date Filed:* July 20, 1998.

d. *Applicant:* Minnesota Power, Incorporated.

e. *Name of Project:* Minnesota Blanchard Project.

f. *Location:* Morrison County, Royalton, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. *Applicant Contact:* Mr. John A. Niemela P.E., Minnesota Power, Incorporated, 30 West Superior Street, Duluth, Minnesota 55802 (218) 722–5642, extension 3329.

i. *FERC Contact:* Doan Pham, (202) 219–2851.

j. *Comment Date:* September 18, 1998.

k. *Description of the Filing:* The licensee filed an application to amend the license to remove from the project boundary, about 1, 831.59 acres of private property and 103.27 acres of fee-owned property, located along the Mississippi River, about 8.5 river miles upstream and 0.8 river mile downstream of the Blanchard Dam. The licensee indicates these properties are not necessary for project operation and maintenance, do not have any value with regard to environmental resources enhancement, and are subject to adequate local zoning and land use regulation by the local government agencies.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies

provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an Agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–20854 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Application Tendered for Filing With the Commission

July 30, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Exemption of Small Conduit Hydroelectric Facility.

b. *Project No.:* P–11531–001.

c. *Date filed:* July 21, 1998.

d. *Applicant:* The City of Boulder, Colorado.

e. *Name of Project:* Silver Lake Hydroelectric Project.

f. *Location:* At the terminus of the applicant's existing Silver Lake Raw Water Pipeline, near the City of Boulder, in Boulder County, Colorado.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Eva June Busse, P.E., Hydroelectric Projects Manager, City of Boulder, P.O. Box 791, Boulder, CO 80306–0791, (303) 441–4271.

i. *FERC Contact:* Bob Easton (202) 219–2782.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Description of Project:* The proposed project would consist of: (1) the existing reinforced concrete Silver Lake Diversion intake structure; (2) the existing 18,820-foot-long, 27-inch-diameter welded steel Silver Lake Pipeline; (3) a proposed powerhouse containing one generating unit having an installed capacity of 3.2 megawatts; (4) discharge facilities into Lakewood Reservoir; (5) a proposed transmission line; (6) a proposed switchyard; and (7) appurtenant facilities.

1. With this notice, we are initiating consultation with the *Colorado State Historic Preservation Officer (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4

m. Under 18 CFR 4.32 (b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the date the application is filed, and must serve a copy of the request on the applicant.

David P. Boegers,

Acting Secretary.

[FR Doc. 98–20855 Filed 8–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed With the Office of Hearings and Appeals, Week of June 22 Through June 26, 1998

During the Week of June 22 through June 26, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: July 22, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 22 through June 29, 1998]

Date	Name and location of applicant	Case No.	Type of submission
6/22/98	Personnel Security Hearing	VSO–0215	Request for Hearing Under 10 CFR Part 710. If granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.

[FR Doc. 98–20893 Filed 8–4–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed; Week of June 29 Through July 3, 1998

During the Week of June 29 through July 3, 1998, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Date: July 22, 1998

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 29 through July 3, 1998]

Date	Name and location of applicant	Case No.	Type of submission
6/30/98	Personnel Security Hearing	VSO–0216	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
7/1/98	Edwin S. Rothschild, McLean, VA	VFA–0423	Appeal of an Information Request Denial. If Granted: The June 12, 1998 Freedom of Information Request Denial issued by the Deputy Assistant Secretary for Strategic Petroleum Reserve would be rescinded, and Edwin S. Rothschild would receive access to certain DOE information.
7/1/98	Personnel Security Hearing	VSO–0217	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
7/2/98	Charles E. Hemingway, Falls Church, VA	VFA–0424	Appeal of an Information Request Denial. If Granted: The June 30, 1998 Freedom of Information Request Denial issued by the Assistant General Counsel for General Law would be rescinded, and Charles W. Hemingway would receive access to certain DOE information.
7/2/98	Personnel Security Hearing	VSO–0218	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.

[FR Doc. 98–20894 Filed 8–4–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6136–5]

Agency Information Collection Activities: Proposed Collection, Comment Request; Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters; EPA ICR # 1292.05; OMB No. 2060–0135; expires 9/30/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 5, 1998.

ADDRESSES: U.S. Environmental Protection Agency, Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement (2242A), 401 M Street SW, Washington, D.C. 20460. Copies of the ICR can be obtained free of charge by contacting Ervin Pickell as provided below.

FOR FURTHER INFORMATION CONTACT: Ervin Pickell, Telephone: (303) 969–6485; Facsimile number: (303) 969–6490; E–MAIL: pickell.erv@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are manufacturers and installers of aftermarket automobile catalytic converters.

Title: Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters (OMB Control number 2060–0135; EPA ICR # 1292.05.) expiring 09/30/98.

Abstract: Section 203(a)(3) of the Clean Air Act (Act) prohibits removing or rendering inoperative automobile emission control devices or elements of design. But for the adoption of the aftermarket catalytic converter enforcement policy (51 FR 28114–28119, 28133 (Aug. 5, 1986); 52 FR 42144 (Nov. 3, 1987)), the manufacture, sale or installation of aftermarket catalytic converters (catalysts) not equivalent to new original equipment (OE) catalysts would constitute a violation of the Act. However, because replacement OE catalysts are expensive, many consumers had elected to not replace catalysts that malfunctioned subsequent to the expiration of the emissions warranty on their vehicles.

The Agency believes that allowing the installation of slightly less effective aftermarket catalysts on older vehicles can be environmentally beneficial if the Agency can be assured that the aftermarket catalysts meet certain standards and if installers are accountable to select the proper aftermarket catalyst for each vehicle application. Manufacturers of new aftermarket catalysts are required, on a one-time basis, for each catalyst line manufactured, to identify the catalyst physical specifications and summarize pre-production testing of the prototype. In addition, the manufacturer must submit semi-annual reports to EPA of the number of each type of catalyst manufactured and a summary of warranty card information (or copies of warranty cards, at the manufacturer's option). Companies that recondition used catalysts must, on a one-time basis, identify the company and provide information regarding procedures to be used to test used catalysts. All used catalysts must be individually bench-tested, and the company must submit semi-annual reports to EPA of the identity of persons who distribute the reconditioned catalysts and the number of reconditioned catalysts of each type that are sold to each distributor.

Companies that install aftermarket catalysts have no reporting requirements but for 6 months must keep copies of installation invoices and records that show the reason an aftermarket catalyst installation was appropriate. Removed catalysts must be tagged with identifying information and be kept for 15 days. EPA allows the use of pre-printed documents or computer-generated documents. All the recordkeeping under the policy is authorized by section 114 of the Act, 42 U.S.C. § 7414 and section 208 of the Act, 42 U.S.C. § 7542.

Parties who comply with these policies are allowed to install aftermarket catalysts instead of OE catalysts.

Confidentiality provisions are found at 40 CFR Part 2. These requirements have been in effect for over 10 years. Startup costs have been completed. The

proposed ICR utilizes assumptions that are the same as the previous ICR.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

In addition to this information, you may obtain a copy of the draft ICR supporting statement as provided above.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: For new catalyst manufacturers the average hourly burden per year per respondent is about 5 hours for the reporting required by the policy and the associated recordkeeping. The reporting is mandatory. The frequency of response is estimated to be 1 report per year for a new product line and 2 reports per year on manufacturing and warranty card information. There are 12 entities in the country covered by the requirements. Total burden for all new catalyst manufacturers is about 60 hours per year. There are annual operating and maintenance costs of about $60 per manufacturer. There are annualized purchased service costs of $35,700 per respondent. There are no annualized capital costs. Startup costs have been completed.

For parties who recondition used catalysts, the average annual hourly reporting burden is 631 hours per respondent. The reporting is mandatory. The frequency of response is 2 reports per year based on about 8,900 tests of used catalysts per respondent. Total burden for all 8 respondents is about 5,048 hours. There are annual operation and maintenance costs of about $200 per respondent. There are annualized capital costs of about $38,244 per respondent.

For parties who install aftermarket catalysts there is no reporting burden. The average annual recordkeeping burden is about 3.5 hours per respondent. There are no annualized operation and maintenance costs or annualized capital costs. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: June 23, 1998.

Sylvia K. Lowrance,

Principal Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 98–20903 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–40032; FRL–6021–8]

Toxics Data Reporting Committee of the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act, EPA is providing notice of a 2-day meeting of the Toxics Data Reporting (TDR) Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT). This will be the seventh meeting of the TDR Committee, whose mission is to provide advice to EPA regarding the Agency's Toxics Release Inventory (TRI) Program.

DATES: The public meeting will take place on August 27 through 28, 1998, from 8:30 a.m. to 5 p.m. Written and electronic comments in response to this notice should be received by August 14, 1998.

ADDRESSES: The meeting will be held at L'Enfant Plaza, SW., Washington, DC, (202) 484–1000.

All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460. Each comment must bear the docket control number OPPTS–40032.

Comments and data may also be submitted electronically to: oppt.ncic@epa.gov. Follow the instructions under Unit II. of this document.

No Confidential Business Information (CBI) should be submitted through e-mail. All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this action. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Cassandra Vail, telephone: (202) 260–0675, fax number: (202) 401–8142, e-mail: vail.cassandra@epa.gov or Michelle Price, telephone: (202) 260–3372, fax number: (202) 401–8142, e-mail: price.michelle@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

At the 2-day meeting, the TDR Committee will review and discuss drafts of their reports to EPA.

Information on availability of meeting summaries from previous TDR Committee meetings will be available on the TRI Home Page. The address of the TRI Home Page is http://www.epa.gov/opptintr/tri. This information can be found under the heading ''TRI Stakeholder Dialogue.'' In addition, the agenda for the August 27 through 28 TDR Committee meeting will also be available at this same site prior to the meeting. Oral presentations or statements by interested parties will be limited to 5 minutes. Interested parties are encouraged to contact Cassandra Vail, to schedule presentations before the Committee.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this action under docket control number OPPTS–40032 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays in the official record. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–40032. Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: July 29, 1998.

Cassandra Vail,

Designated Federal Official, Office of Pollution Prevention and Toxics.

[FR Doc. 98–20907 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6136–4]

Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Daylight Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office.

1. Environmental Health Committee (EHC)

The Environmental Health Committee (EHC) of the Science Advisory Board (SAB) will meet on Tuesday, August 18 and Wednesday, August 19, 1998, beginning no earlier than 8:30 a.m. and ending no later than 5:30 p.m. on each day. All times noted are Eastern Standard Time. The meeting will be held at the Madison Room at the Quality Hotel Courthouse Plaza, 1200 N. Courthouse Road, Arlington, Virginia 22201.

Purpose

The purpose of the meeting is to conduct a technical review of the Lead 403 Rule, focusing on the proposed standards that were developed by the EPA to prioritize abatement and hazard control activities under Title X of the Lead-Based Paint Hazard Reduction Act on August 18–19, 1998. The review is scheduled for August 18 and the Committee plans to begin preparation of a working draft on August 19. Both sessions are open to the public.

Draft Charge Questions

The EHC has been asked to respond to the following draft Charge questions which are subject to revision:

General Questions

(a) In each of the specific areas identified below, have we used the best available data? Have we used this data appropriately? Have we fairly characterized the variability, uncertainties and limitations of the data and our analyses?

(b) Are there alternative approaches that would improve our ability to assess the relative risk impacts of candidate options for paint, dust, and soil hazard standards?

(c) The approach employs risk assessment models that were primarily developed for use in site-specific or localized assessments. Has the use and application of the Integrated Exposure Uptake Biokinetic Model (IEUBK) and empirical model in this context been sufficiently explained and justified? Is our use of these tools to estimate nationwide impacts technically sound?

(d) Are there any critical differences in environmental lead-blood lead relationships found in local communities that should be considered in interpreting our results at the national level?

(e) In view of the issues discussed and analyzed in sensitivity analyses contained in the two documents, in what specific areas should we focus (e.g., refine our approach, gather additional data, etc.) between now and the final rule? (The timing of the final rule will be dictated by a consent agreement. We should be in a position to present a firm schedule prior to the SAB meeting.)

Specific Questions

(a) The HUD National Survey, conducted in 1989–90, measured lead levels in paint, dust, and soil in 284 privately owned houses. Does our use of this data constitute a reasonable approach to estimating the national distribution of lead in paint, dust, and soil?

(b) The approach employs conversion factors to combine data from studies that used different sample collection techniques. Is this appropriate? Is the method for developing these conversion factors technically sound?

(c) IQ point deficits.

(1) The approach characterizes IQ decrements in the baseline blood-lead distribution, essentially implying that any blood-lead level above zero results in IQ effects. Have we provided a sufficient technical justification for this approach? Is this approach defensible and appropriate?

(2) The characterization of IQ point loss in the population includes the summation of fractional IQ points over the entire population of children. Have we provided a sufficient technical justification for this approach? Is this approach defensible and appropriate?

(3) One of the IQ-related endpoints is incidence of IQ less than 70. Should consideration be given to what the IQ score was, or would have been, prior to the decrement (i.e., should different consideration be given to cases where a small, or even fractional, point decrement causes the <70 occurrence vs. being <70 due to larger decrements)? If so, how might this be done?

(d) Are the assumptions regarding duration, effectiveness, and costs of intervention activities reasonable?

(e) Are the combinations of standards used in Chapter 6 of the risk analysis reasonably employed given the potential interrelationships between levels of lead in different media? Is additional data available on the interrelationship between lead levels in paint, dust, and soil prior to and after abatement?

(f) The approach for estimating health effect and blood-lead concentration endpoints after interventions is based upon scaling projected declines in the distribution of children's blood-lead concentrations to the distribution reported in Phase 2 of the National

Health and Human Nutrition Examination Survey (NHANES) III. Under this approach, data collected in the HUD National Survey are utilized to generate model-predicted distributions of blood-lead concentrations prior to and after the rule making. The difference between the pre section 403 and post section 403 model predicted distributions is used to estimate the decline in the distribution of children's blood-lead concentration. This decline is then mathematically applied to the distribution reported in NHANES III. Is this adjustment scientifically defensible in general, and in the specific case where the environmental data—from the HUD Survey—and the blood lead data—from NHANES III—were collected at different times (1989–90 vs. 1991–1994)?

Background

Under Title X of the Lead-Based Paint Hazard Reduction Act, the Environmental Protection Agency (EPA) is charged with promulgating standards to identify dangerous levels of lead, which includes hazards from lead-based paint, lead-contaminated dust, and lead-contaminated soil (Toxic Substances Control Act (TSCA) Section 403). The presence of these ''lead-based paint hazards'' triggers various requirements (e.g., abatement workers must be certified if lead-based paint or lead-based paint hazards are present in a residence.)

The Office Prevention, Pesticides and Toxic Substance's (OPPTS) approach is to promulgate standards that can be used to prioritize abatement and hazard control activities, rather than to attempt to define health threshold levels (i.e., to target the worst cases rather than to establish ''safe'' levels). While this will ultimately be a risk management decision, analyses of the prevalence of environmental lead levels in U.S. residences, incremental costs and benefits (estimated reductions in children's blood lead), and implementation/enforceability issues will be used to choose between various options for dust and soil lead levels. OPPTS seeks an SAB review of its technical approach to characterizing the incremental differences in costs and benefits between various candidate dust and soil lead levels.

FOR FURTHER INFORMATION CONTACT: Copies of the review document and any background materials for the review are *not available* from the SAB. Requests for copies of the background material may be directed to Mr. Dave Topping by telephone (202) 260–7737, by fax (202) 260–0770 or via E-Mail at: topping.dave@epa.gov. Technical questions regarding the SAB review of the TSCA Section 403 Rule may also be directed to Mr. Topping. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Wanda Fields, Management Assistant, EHC, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW., Washington DC 20460, by telephone (202) 260–5510 by fax (202) 260–7118; or via E-Mail at: fields.wanda@epa.gov.

Anyone wishing to make an oral presentation at the meeting must contact Ms. Roslyn Edson, Designated Federal Officer for the EHC, *in writing*, no later than 5:00 p.m. Eastern Time on August 13, 1998, by fax (202) 260–7118, or via E-mail: edson.roslyn@epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Edson no later than the time of the presentation for distribution to the Committee and the interested public.

2. Environmental Economics Advisory Committee (EEAC)

The Environmental Economic Advisory Committee of the Science Advisory Board (SAB), will meet on August 19, 1998, from 9:00 a.m. to no later than 4:00 p.m. at the Latham Hotel, 3000 M Street, NW., Washington, DC 20460; telephone (202) 726–5000. The purpose of the meeting will be to discuss the economic analysis guidelines being developed by the Environmental Protection Agency. The EEAC will also complete its work on an advisory that addresses economic research topics.

Background Information on Economic Analysis Guidelines

The Environmental Economics Advisory Committee (EEAC or the Committee) has been asked to conduct an advisory review of the revised Guidelines for Preparing Economic Analyses, a document produced under the direction of the EPA's Regulatory Policy Council. The guidelines are designed to reflect Agency policy on the conduct of the economic analyses called for under applicable legislative and administrative requirements, including, but not limited to Executive Order 12866. These guidelines are intended to provide EPA analysts with a concise but thorough treatment of mainstream thinking on important technical issues so that they can conduct credible and consistent economic analyses. They refer to methods and practices that are commonly accepted in the environmental economics profession; however, they are not intended to preclude new or innovative forms of analysis. The guidelines account for some of the practical limitations on time and resources that EPA analysts must contend with when preparing economic analyses. They are shaped by administrative and statutory requirements that contain direct references to the development of economic information during the development of regulations (e.g., evaluations of economic achievability). The guidelines provide some flexibility to analysts to enable them to ''customize'' analyses to be as complex and complete as is necessary to conform to administrative and legal procedures. The document also emphasizes the need for the EPA analyst to ensure that their analytic efforts are commensurate with the value of the information to the regulatory and policy making process.

Tentative Charge to the Committee

The Agency is seeking external advice because of the pervasive influence of the documents on the conduct of agency-wide economic analyses. The Agency charge asks the following:

(a) Do the published economic theory and empirical literature support the statements in the guidance document on the treatment of discounting benefits and costs in the following circumstances:

(1) Discounting private and public costs for use in an economic impact analysis?

(2) Discounting social benefits and costs in an intragenerational context?

(3) Discounting social benefits and costs in an intergenerational context?

(4) Discounting social benefit and cost information that is reported in nonmonetary terms?

(b) Do the published economic theory and empirical literature support the statements in the guidance document on quantifying and valuing the social benefits of reducing fatal human health risks?

(c) Do the published economic theory and empirical literature support the statements in the guidance document on the treatment of certainty equivalents in the assessment of social benefits and costs of environmental policies?

(d) Do the published economic theory and empirical literature support the statements in the guidance document on the merits and limitations of different valuation approaches to the measurement of social benefits from reductions in human morbidity risks and improvements in ecological

conditions attributable to environmental policies?

(e) Do the published economic theory and empirical literature support the statements in the guidance document on the relationships and distinctions between the measurement of economic impacts and net social benefits?

(f) Does the guidance document contain an objective and reasonable presentation on the published economic theory, empirical literature, and analytic tools associated with computable general equilibrium (CGE) models, and description of their relevance for economic analyses performed by the EPA?

(g) Does the guidance document contain an objective and reasonable presentation on the measurement of economic impacts, including approaches suitable to estimate impacts of environmental regulations on the private sector, public sector and households? This includes, for example, the measurement of changes in market prices, profits, facility closure and bankruptcy rates, employment, market structure, innovation and economic growth, regional economies, and foreign trade.

(h) Does the guidance document contain a reasonable presentation and set of recommendations on the selection of economic variables and data sources used to measure the equity dimensions identified as potentially relevant to environmental policy analysis?

The EPA requests that the Committee provide written review and documentation, when applicable, to support recommended changes to the guidance document. The EPA also seeks recommendations from the Committee on alternative methodologies, assumptions and data sources that will improve the presentation of economic issues addressed in the guidance document.

Background Information on Economic Research Plan

The Agency is in the early stages of preparing an economic research plan to guide its research in this area which is important to environmental policy making. The EEAC was asked at its April 9, 1998 meeting to provide the Agency with its advice on a list of topics proposed for inclusion in the EPA economic research program. The Committee has drafted this Advisory and will discuss it with the intention of reaching closure at this meeting.

FOR FURTHER INFORMATION: Single copies of the guidelines information provided to the Committee can be obtained by contacting Mr. Brett Snyder, Director, Economy and Environment Division, Office of Policy (2172), 401 M Street SW., Washington DC 20460, telephone (202) 260–5610, fax (202) 260–2685, or via E-Mail at: snyder.brett@epa.gov. Copies of the draft Advisory can be obtained by contacting Ms. Diana Pozun, Management Assistant, Committee Operations Staff, Science Advisory Board (1400), US EPA, 401 M Street SW., Washington DC 20460, telephone (202) 260-4126, fax (202) 260–7118, or E-Mail at: pozun.diana@epa.gov. Anyone wishing to make an oral presentation at the meeting must contact Mr. Thomas Miller, Designated Federal Officer for the Environmental Economics Advisory Committee, *in writing* no later than 4:00 pm, August 12, 1998, at the above address, via fax (202) 260–7118, or via E-Mail at: miller.tom@epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public. To discuss technical aspects of the meeting, please contact Mr. Miller by telephone at (202) 260–5886.

3. D–Cormix Review Subcommittee

The D–CORMIX Review Subcommittee of the Science Advisory Board (SAB) will meet on August 25–26, 1998 in the Science Advisory Board Conference Room (Room M3709), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Background

Understanding the fate of dredged material disposed at open water sites is essential in order to predict potential effects of released contaminants on aquatic life and human health. Mathematical models of the physical processes determining the fate of the disposed material can be used to provide an estimate of concentrations in the receiving water as well as the initial deposition pattern of material on the bottom. The draft Inland Testing Manual for the evaluation of dredged material discharges, previously reviewed by the SAB, contains a mathematical model for evauating the mixing of instantaneous discharges from barges and hoppers. D–CORMIX predicts the initial dilution and mixing zone of a typical continuous dredge outfall operation (*e.g.* pipeline discharge). The model, when fully validated, will be an important tool to evaluate potential exceedences of water quality standards due to continuous dredged material or other negatively buoyant discharges. The Office of Water has asked that the Science Advisory Board conduct a review of the model, addressing the questions raised below.

Tentative Charge to the Subcommittee

(a) Technical aspects of D–CORMIX

(1) Is D–CORMIX an appropriate water quality model to use for continuous dredged material discharge mixing zone analysis?

(2) Does the model accurately capture the physics of negatively buoyant surface plumes, in particular, behavior of the density current and particle settling associated with dredged disposal plumes?

(3) Is D–CORMIX, a model based on conservation of mass, momentum and energy principles that provides continuous simulation of near-field, intermediate-field, and far-field physical processes, preferable to models which make empirical assumptions on the amount of suspended materials available for transport (*e.g.* CD–FATE)?

(4) Does the SAB approve of our outline for laboratory validation? What further suggestions can be offered?

(b) Implementation of model with regard to use of an allocated impact zone

(1) What factors should be used in determining the vertical, horizontal and/or downstream extent of the mixing zone?

FOR FURTHER INFORMATION. Copies of the review materials and model diskette are not available from the SAB. Requests for copies of these material may be directed to Mr. Michael Kravitz, Office of Science and Technology, Office of Water (4305), 401 M Street, SW, Washington, DC 20460, phone: (202) 260–8085, fax (202) 260–9830 or E-Mail at: kravitz.michael@epa.gov. Technical questions regarding the SAB review of the materials may also be directed to Mr. Kravitz. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Wanda Fields, Management Assistant, Committee Operations Staff, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–5510 by fax (202) 260–7118; or via E-Mail at: fields.wanda@epa.gov.

Anyone wishing to make an oral presentation at the meeting must contact Mr. Robert Flaak, Designated Federal Officer, *in writing,* no later than 5:00 pm Eastern Time on August 18, 1998, by fax (202) 260–7118, or via E-Mail: flaak.robert@epa.gov The request should identify the name of the individual who will make the presentation and an

outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Flaak no later than the time of the presentation for distribution to the Committee and the interested public.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting. Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY 1997 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information concerning the SAB can be found on the SAB Home Page at: http://www.epa.gov/sab.

Dated: July 30, 1998.

A. Robert Flaak,

Acting Deputy Staff Director, Science Advisory Board.

[FR Doc. 98–20897 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66254; FRL–6018–7]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: The Agency will approve these use deletions and the deletions will become effective on or soon after the date of publication. Non-food site users of these products who desire continued use on sites being deleted should contact the applicable registrant before September 4, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Office of Pesticide Programs (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 203, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305–5404

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in 10 pesticide registrations containing the active ingredient chlorpyrifos, as listed in Table 1 below. These registrations are listed by registration number, product names/active ingredients and the specific uses deleted. Although the use of chlorpyrifos products on popcorn and carrots have been registered sites for chlorpyrifos products, a tolerance has not been established for chlorpyrifos residues on these commodities under the Federal Food, Drug, and Cosmetic Act (FFDCA). Therefore, under FIFRA section 2(bb), these uses represent an unreasonable adverse effect on the environment, as they could result in human dietary risk from residues resulting from use of a pesticide in or on food inconsistent with the standard under section 408 of FFDCA. As such, the Agency is hereby waiving the 180–day comment period normally given for the deletion of a minor agricultural use, in accordance with FIFRA section 6(f)(1)(c). The Agency has determined that, while these actions require publication for the purpose of announcement, a comment period is not warranted.

The remaining use deletions (non-food sites) announced in this Notice will retain a 30–day comment period. Users of these products who desire continued use on sites being deleted should contact the applicable registrant before September 4, 1998 to discuss withdrawal of the applications for amendment. This 30–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product Name (Active Ingredient)	Delete From Label
004787–00027	Chlorpyrifos Technical (chlorpyrifos)	Popcorn; Carrot
010370–00064	Ford's Dursban 1-E (chlorpyrifos)	All Indoor Pest Control Uses
011474–00090	Sungro Buggone II Residual Insecticide (chlorpyrifos)	Indoor Broadcast Use
011715–00110	Mug-A-Bug Insecticide (chlorpyrifos)	Indoor Broadcast Use
011715–00139	SPI Carpet Spray (chlorpyrifos)	Indoor Broadcast Use
011715–00312	Speer D-Trans Residual Spray with Nylar (chlorpyrifos)	Indoor Broadcast Use
028293–00121	Unicorn Dursban-Resmethrin Spray (chlorpyrifos)	Indoor broadcast Use
051036–00118	Chlorpyrifos 4E L.O. (chlorpyrifos)	Indoor Broadcast Use
070907–00004	Gharda Chlorpyrifos 4E (chlorpyrifos)	Popcorn
070907–00005	Gharda Chlorpyrifos 15G (chlorpyrifos)	Popcorn

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
004787	Cheminova Agro A/S c/o Cheminova, Inc. 1700 Route 23, Suite 210 Wayne, NJ 07470
070907	Gharda USA, Inc. P.O. Box 5068 Brookfield, CT 06804
011474	Sungro Chemicals Inc. P.O. Box 24632 Los Angeles, CA 90024
011715	Speer Products, Inc. P.O. Box 18993 Memphis, TN 38181
028293	Unicorn Laboratories 12385 Automobile Blvd. Clearwater, FL 33762
051036	Micro Flo Company P.O. Box 5948 Lakeland, FL 33807
010370	Agrevo Environmental Health 95 Chestnut Ridge Road Montvale, NJ 07645

III. Existing Stocks Provisions

The Agency has authorized Cheminova Agro A/S to sell or distribute product under the previously approved labeling for a period of 60 days after the effective date of use deletions. This determination was based in part on the voluntary agreement of this registrant to cease selling product bearing previously approved labeling within that time period.

The Agency has authorized Gharda USA to sell or distribute product under the previously approved labeling for a period of 90 days after the effective date of use deletions. This determination was based in part on the voluntary agreement of this registrant to cease selling product bearing previously approved labeling within that time period.

The Agency has authorized Agrevo Environmental Health to sell or distribute product under the previously approved labeling for a period of 18 months after the effective date of use deletions.

The Agency has authorized Sungro Chemicals Inc., Speer Products Inc., Unicorn Laboratories, and the Micro Flo Company to sell or distribute product under the previously approved labeling for a period of 6 months after the effective date of use deletions.

Dated: July 21, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–20764 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66255; FRL–6018–8]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: The Agency will approve these use deletions and the deletions will become effective on or soon after the date of publication.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly Office of Pesticide Programs (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305–5404

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the four manufacturing grade chlorpyrifos pesticide registrations listed in Table 1 below. These registrations are listed by registration number, product names/active ingredients and the specific uses deleted. Although the food use sites being deleted have been registered sites for chlorpyrifos products, tolerances have not been established for these commodities under the Federal Food, Drug, and Cosmetic Act (FFDCA). Therefore, under FIFRA section 2(bb), these uses represent an unreasonable adverse effect on the environment, as they would result in human dietary risk from residues resulting from use of a pesticide in or on food inconsistent with the standard under section 408 of FFDCA. As such, the Agency is hereby waiving the 180–day comment period normally given for the deletion of a minor use, in accordance with FIFRA section 6(f)(1)(c). The Agency has determined that, while these actions require publication for the purpose of announcement, a comment period is not warranted.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name (Active Ingredient)	Delete From Label
062719–00045	Dursban 30 SEC (Chlorpyrifos)	Use on popcorn and carrot (including seed)
062719–00066	Dursban HF Insecticidal Concentrate (Chlorpyrifos)	Use on popcorn and carrot (including seed)
062719–00078	Dursban W Insecticidal Concentrate (Chlorpyrifos)	Use on popcorn and carrot (including seed)
062719–00225	XRM–5222 (Chlorpyrifos)	Use on popcorn and carrot (including seed)

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
062719	Dow AgroSciences Corporation, 9330 Zionsville Road, Indianapolis, IN 46268

III. Existing Stocks Provisions

The Agency has authorized the registrant to sell or distribute product under the previously approved labeling for a period of 60 days after the effective date of use deletions. This determination was based in part on the voluntary agreement of this registrant to cease selling product bearing previously approved labeling within that time period.

Dated: July 21, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–20765 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENT PROTECTION AGENCY

[OPP–66253; FRL–6018–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on February 1, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 15 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names/active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before February 1, 1999 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TODELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg Nr	Product Name (Active Ingredient)	Delete From Label
000100–00723	Fenoxycarb Technical (Fenoxycarb)	Indoor uses, food serving areas fo food and feed handling establishments, application to pets, i*N*-premises indoors except for greenhouses, hothouses, lath, shade houses
000432–00799	AquaPy (Piperonyl butoxide; Pyrethrins) ..	Earwigs, direction for use through TurboCide Gold systems
000655–00644	Prentox Pyronyl Oil Concentrate #1233–A (*N*-Octyl bicloheptene dicarboximide; Piperonyl butoxide; Pyrethrins).	Pet applications
000655–00664	Prentox Pyronyl Oil Concentrate #12294 (*N*-Octyl bicloheptene dicarboximide; Piperonyl butoxide; Pyrethrins).	Pet applications
000655–00665	Prentox Pyronyl UL–100 Concentrate (*N*-Octyl bicloheptene dicarboximide; Piperonyl butoxide; Pyrethrins).	Pet applications
000655–00683	Prentox Pyronyl Oil Concentrate #15A (Piperonyl butoxide; Pyrethrins).	Pet applications
000655–00684	Prentox Pyronyl Oil Concentrate #15 (Piperonyl butoxide; Pyrethrins).	Pet applications
000655–00785	Prentox Pyronyl Oil Concentrate 125–25 (Piperonyl butoxide; Pyrethrins).	Pet applications
000769–00700	SMCP Malathion ULV	Tomatoes, cotton, forests Concentrate Insecticide (Malathion)
000769–00961	Pratt Malathion 80EC (Malathion)	Apples, cherries, plums, peaches, pears, tobacco, asparagus, cole crops, cauliflower, lettuce, cucurbits, cowpeas, spinach, tomatoes, blackberries, blueberries, cranberries, raspberries, strawberries
03125–00083	DI-SYSTON 2% Granular Systemic Insecticide (Disulfoton).	Lettuce
003125–00126	DI-SYSTON Systemic Insecticide for Vegetables (Disulfoton).	Lettuce
003125–00172	DI-SYSTON 15% Granular Systemic Insecticide (Disulfoton).	Lettuce
061469–00001	AUS 90 Technical 2,4-D (2.4-Dichlorophenoxy-in residential sites acetic Acid).	Turfgrass established

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TODELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg Nr	Product Name (Active Ingredient)	Delete From Label
061469–00002	2,4-D Technical Acid (2,4-Dichlorophenoxy-in residential sites acetic Acid).	Turfgrass established

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000100 ..	Norvartis Crop Protection, P.O. Box 18300, Greensboro, NC 27419.
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NY 07645.
000655 ..	Prentiss Incorporated, C.B. 2000, Floral Park, NY 11002.
000769	SureCo, Inc., 10012 N. Dale Mabry., Ste. 221, Tampa, FL 33618.
000829	Southern Agricultural Ins., Inc., P.O. Box 218, Palmetto, FL 34220.
003125	Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120.
061469 ..	Agro-GOR, 1217 West 12th Street, P.O. Box 4090, Kansas City, MO 64101.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: July 21, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–20766 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66256; FRL 6019–5]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by February 1, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 16 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000239–02360	Ortho Ant, Roach & Spider Spray	*o*-Isopropoxyphenyl methylcarbamate
000239–02390	Ortho Hornet & Wasp Jet Spray	*o*-Isopropoxyphenyl methylcarbamate
000352 WA–90–0037	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000773–00079	Del-Phos Sponge-On Dip for Dogs	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
003125–00277	Sencor 50% Wettable Powder Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
003125–00305	Sencor 50% Wettable Powder	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
003125 CA–79–0059	Morestan 25% Wettable Powder Miticide, Fungicide	6-Methyl-2,3-quinoxalinedithiol cyclic *S,S*-dithiocarbonate
003125 LA–93–0019	Morestan 25% Wettable Powder Miticide, Fungicide, Insecticide	6-Methyl-2,3-quinoxalinedithiol cyclic *S,S*-dithiocarbonate
006175–00038	Spray Kill for Dogs, Cats & Horses	*N*-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		Pyrethrins
010163 WA–79–0047	Imidan 50-WP Garden & Home Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 WA–92–0029	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010806–00019	Contact Shure-Shot Wasp & Hornet Spray	*o*-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
010806–00080	Contact Roach & Ant Killer VIII	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl-
		o-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
010806–00096	Contact Ant and Roach Killer XIV	*d-trans*-Chrysanthemum monocarboxylic acid ester of d-2-allyl-4-hydroxy-3-
		o-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
011715–00164	Speer Fire Ant Insecticide with Rotenone	Rotenone
		Cube Resins other than rotenone
051036 OR–94–0020	Captan 50 Wettable Powder	cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000239	The Solaris Group of Monsanto Co., Box 5006, San Ramon, CA 94583.
000352	E. I. Du Pont De Nemours & Co, Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000773	Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
006175	Schering-Plough Veterinary Operations, Inc., 1095 Morris Ave., Union, NJ 07083.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010806	Contact Industries, Div of Safeguard Chemical Corp., 411 Wales Ave., Bronx, NY 10454.
011715	Speer Products Inc., Box 18993, Memphis, TN 38181.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before February 1, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject

to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: July 21, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–20767 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–817; FRL–5799–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–817, must be received on or before September 4, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Hoyt Jamerson	Rm. 268, CM #2, 703–308–9368, e-mail:jamerson.hoyt@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Cynthia Giles-Parker	Rm. 247, CM #2, 703–305–7740, e-mail:giles-parker.cynthia@epamail.epa.gov.	
Jim Tomopkins	Rm. 239, CM #2, 703–305–5697,e-mail:tompkins.jim@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–817] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 15, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and

measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. BASF Corporation

PP 6F4695

EPA has received a pesticide petition (PP 6F4695) from BASF Corporation, Agricultural Products, PO Box 13528, Research Triangle Park, NC 27709, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of sethoxydim (2-[1-ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodities (RACs) grapes at 1.0 part per million (ppm), succulent beans at 15.0 ppm, bean forage at 15.0 ppm, soybeans at 16.0 ppm, and raisins at 2.0 ppm. BASF Corporation also requested that the established tolerances for raisin waste at 1.0 ppm and grape pomace (dry and wet) at 6.0 ppm be revoked, since they are considered insignificant animal feed commodities and are no longer of regulatory concern.

PP 4F4075

EPA has received a pesticide petition (PP 4F4075) from BASF Corporation, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of sethoxydim (2-[1-ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodities (RACs) rice grain at 0.1 ppm, rice straw at 0.5 ppm, rice hulls at 0.2 ppm, and rice bran at 0.2 ppm.

2. Interregional Research Project Number 4 (IR-4)

PP 6E4753, 6E4725, 6E4698, 6E4697

EPA has received pesticide petitions (PP 6E4753, 6E4725, 6E4698, and 6E4697) from IR-4, New Jersey Agricultural Experiment Station, Rutgers University, New Brunswick, New Jersey 08903 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydoxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide)) in or on the raw agricultural commodities as follows:

PP 6E4753

Petition submitted on behalf of Agricultural Experiment Stations of Oregon and Washington proposing tolerances for the leafy vegetable (except Brassica) crop group at 4.0 ppm and cilantro at 4.0 ppm. The petitioner also requested that established tolerances for combined residues of sethoxydim and its metabolites on celery at 1.0 ppm, head lettuce at 1.0 ppm, leaf lettuce at 2.0 ppm, spinach at 4.0 ppm, and endive (escarole) at 2.0 ppm be removed, since these commodities are members of the leafy vegetable (except Brassica) crop group.

PP 6E4725

Petition submitted on behalf of the Agricultural Experiment Stations of California, Florida, Georgia, Illinois, Michigan, New York, Oklahoma, Oregon, South Carolina, Virginia, Washington, and Wisconsin proposing tolerances for the tuberous and corm vegetable subgroup at 4.0 ppm and garden beet at 1.0 ppm. The petitioner also requested that established tolerances for combined residues of sethoxydim and its metabolites in or on potato and sweet potato at 4.0 ppm be removed, since these commodities are members to the tuberous and corm vegetable subgroup.

PP 6E4698

Petition submitted on behalf of the Agricultural Experiment Station of California proposing that the existing tolerance for combined residues of sethoxydim and its metabolites in or on artichoke be increased from 3.0 ppm to 5.0 ppm

PP 6E4697

Petition submitted on behalf of the Agricultural Experiment Station of Oregon proposing a tolerance for the caneberry crop subgoup at 5.0 ppm. The petitioner also requested that the established tolerance for combined residues of sethoxydim and its metabolites in or on raspberry at 5.0 ppm be removed, since the caneberry subgroup includes raspberry.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions. This notice includes a summary of the petitions prepared by BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of the residues in plants and animals is adequately understood for the purposes of registration. Analytical method for detecting levels of sethoxydim and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances were submitted to EPA.

2. *Analytical method*. The proposed analytical method involves extraction, partition, and clean-up. Samples are then analyzed by gas chromatography with sulfur-specific flame photometric detection. The limit of quantitation is 0.05 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Based on the available acute toxicity data, BASF concludes that sethoxydim does not pose any acute dietary risks. A summary of the acute toxicity studies follows.

i. *Acute oral toxicity—Rat*. Toxicity Category III; lethal dose $(LD)_{50}$=3125 milligram/kilogram (mg/kg) (male), 2676 mg/kg (female)

ii. *Acute dermal toxicity-Rat*. Toxicity Category III; LD_{50}≤5,000 mg/kg (male and female)

iii. *Acute inhalation toxicity—Rat*. Toxicity Category III; lethal concentration $(LC)_{50}$ (4-hour)=6.03 mg/liter (L) (male), 6.28 mg/L (female)

iv. *Primary eye irritation-rabbit*. Toxicity Category IV; no irritation

v. *Primary dermal irritation-rabbit*. Toxicity Category IV; no irritation

vi. *Dermal sensitization- guinea pig*. Waived because no sensitization was seen in guinea pigs dosed with the end-use product Poast (18% active ingedient).

2. *Genotoxicity*. Ames assays were negative for gene mutation in *Salmonella* typhimurium strains TA98, TA100, TA1535, and TA 1537, with and without metabolic activity.

A Chinese hamster bone marrow cytogenetic assay was negative for structural chromosomal aberrations at doses up to 5,000 mg/kg in Chinese hamster bone marrow cells *in vivo*.

Recombinant assays and forward mutations tests in Bacillus subtilis, Escherichia *coli*, and *S* typhimurium were all negative for genotoxic effects at concentrations of greater than or equal to 100%.

3. *Reproductive and developmental toxicity*. A developmental toxicity study

in rats fed dosages of 0, 50, 180, 650, and 1,000 mg/kg/day with a maternal no-observed adverse effect level (NOAEL) of 180 mg/kg/day and a maternal lowest effect level (LEL) of 650 mg/kg/day (irregular gait, decreased activity, excessive salivation, and anogenital staining); and a developmental NOAEL of 180 mg/kg/day, and a developmental LEL of 650 milligram/killograms/day (mg/kg/day) (21 to 22 percent decrease in fetal weights, filamentous tail, and lack of tail due to the absence of sacral and/or caudal vertebrae, and delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsals, and pubes).

A developmental toxicity study in rabbits fed doses of 0, 80, 160, 320, and 400 mg/kg/day with a maternal no-observed effect level (NOEL) of 320 mg/kg/day and a maternal LOEL of 400 mg/kg/day (37% reduction in body weight gain without significant differences in group mean body weights and decreased food consumption during dosing); and a developmental NOEL greater than 400 mg/kg/day (highest dose tested).

A 2-generation reproduction study with rats fed diets containing 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) with no reproductive effects observed under the conditions of the study.

4. *Subchronic toxicity*. A 21-day dermal study in rabbits with a NOAEL of ≤1,000 mg/kg/day limit dose (LD). The only dose-related finding was slight epidermal hyperplasia at the dosing site in nearly all males and females dosed at 1,000 mg/kg/day. This was probably an adaptive response.

5. *Chronic toxicity*. A summary of the chronic toxicity studies follows.

A 1-year feeding study with dogs fed diets containing 0, 8.86/9.41, 17.5/19.9, and 110/129 mg/kg/day (males/females) with a NOEL of 8.86/9.41 mg/kg/day (males/females) based on equivocal anemia in male dogs at the 17.5-mg/kg/day dose level.

A 2-year chronic feeding/carcinogenicity study with mice fed diets containing 0, 40, 120, 360, and 1,080 ppm (equivalent to 0, 6, 18, 54, and 162 mg/kg/day) with a systemic NOEL of 120 ppm (18 mg/kg/day) based on non-neoplastic liver lesions in male mice at the 360-ppm (54 mg/kg/day) dose level. There were no carcinogenic effects observed under the conditions of the study. The maximum tolerated dose (MTD) was not achieved in female mice.

A 2-year chronic feeding/carcinogenic study with rats fed diets containing 0, 2, 6, and 18 mg/kg/day with a systemic NOEL greater than or equal to 18 mg/kg/day HDT. There were no carcinogenic effects observed under the conditions of the study. This study was reviewed under current guidelines and was found to be unacceptable because the doses used were insufficient to induce a toxic response and a MTD was not achieved.

A second chronic feeding/carcinogenic study with rats fed diets containing 0, 360, and 1,080 ppm (equivalent to 18.2/23.0, and 55.9/71.8 mg/kg/day (males/females). The dose levels were too low to elicit a toxic response in the test animals and failed to achieve a MTD or define a LEL. Slight decreases in body weight in rats at the 1,080-ppm dose level, although not biologically significant, support a free-standing NOAEL of 1,080 ppm (55.9/71.8 mg/kg/day (males/females)). There were no carcinogenic effects observed under the conditions of the study.

In a rat metabolism study, excretion was extremely rapid and tissue accumulation was negligible.

6. *Metabolite toxicology*. As a condition to registration, BASF had been asked to submit additional toxicology studies for the hydroxymetabolites of sethoxydim. BASF's recommendation is to use the most abundant metabolite, 5-OH-MSO2, as surrogate for all metabolites. Based on these data, it was concluded that the toxicological potency of the plant hydroxymetabolites is likely to be equal to or less than that of the parent compound. The tolerance expression for sethoxydim measures sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety, measured as parent. Hence, the hydroxymetabolites are figured into all tolerance calculations.

7. *Endocrine disruption*. No specific tests have been performed with sethoxydim to determine whether the chemical may have an effect in humans that is similar to an effect produced by naturally-occurring estrogen or other endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure, BASF has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from existing and pending tolerances for sethoxydim. (The TMRC is a ''worst case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are at the tolerance levels.) The TMRC from existing tolerances for the overall US population is estimated at approximately 35% of the RfD. Dietary exposure to residues of sethoxydim in or on food from these proposed tolerances increases the TMRC by approximately 8% of the RfD for the overall US population. BASF estimates indicate that dietary exposure will not exceed the RfD for any population subgroup for which EPA has data. This exposure assessment relies on very conservative assumptions that 100% of crops will contain sethoxydim residues and those residues would be at the level of the tolerance which results in an overestimate of human exposure.

2. *Food-other- exposure*. Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. Based on the available studies submitted to EPA for assessment of environmental risk, BASF does not anticipate exposure to residues of sethoxydim in drinking water. There is no established Maximum Concentration Level (MCL) for residues of sethoxydim in drinking water under the Safe Drinking Water Act (SDWA).

BASF has not estimated non-occupational exposure for sethoxydim. Sethoxydim is labeled for use by homeowners on and around the following use sites: flowers, evergreens, shrubs, trees, fruits, vegetables, ornamental groundcovers, and bedding plants. Hence, the potential for non-occupational exposure to the general population exists. However, these use sites do not appreciably increase exposure. Protective clothing requirements, including the use of gloves, adequately protect homeowners when applying the product. The product may only be applied through hose-end sprayers or tank sprayers as a 0.14% solution. Sethoxydim is not a volatile compound so inhalation exposure during and after application would be negligible. Dermal exposure would be minimal in light of the protective clothing and the low application rate. Post-treatment (re-entry) exposure would be negligible for these use sites as contact with treated surfaces would be low. Dietary risks from treated food crops are already adequately regulated by the established tolerances. BASF concludes that the potential for non-occupational exposure to the general population is insignificant.

D. Cumulative Effects

BASF also considered the potential for cumulative effects of sethoxydim and other substances that have a common mechanism of toxicity. BASF is aware of one other active ingredient which is structurally similar, clethodim. However, BASF believes that

consideration of a common mechanism of toxicity is not appropriate at this time. BASF does not have any reliable information to indicate that toxic effects produced by sethoxydim would be cumulative with clethodim or any other chemical; thus BASF is considering only the potential risks of sethoxydim in its exposure assessment.

E. Safety Determination

1. *U.S. population*. Reference Dose (RfD) using the conservative exposure assumptions described above, BASF has estimated that aggregate exposure to sethoxydim will utilize 43% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD. Therefore, based on the completeness and reliability of the toxicity data, and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of sethoxydim, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children—i. developmental toxicity*. Developmental toxicity was observed in a developmental toxicity study using rats but was not seen in a developmental toxicity study using rabbits. In the developmental toxicity study in rats a maternal NOAEL of 180 mg/kg/day and a maternal LEL of 650 mg/kg/day (irregular gait, decreased activity, excessive salivation, and anogenital staining) was determined. A developmental NOAEL of 180 mg/kg/day and a developmental LEL of 650 mg/kg/day (21 to 22% decrease in fetal weights, filamentous tail and lack of tail due to the absence of sacral and/or caudal vertebrae, and delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsals, and pubes). Since developmental effects were observed only at doses where maternal toxicity was noted, BASF concludes that the developmental effects observed are believed to be secondary effects resulting from maternal stress.

ii. *Reproductive toxicity*. A 2-generation reproduction study with rats fed diets containing 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) produced no reproductive effects during the course of the study. Although the dose levels were insufficient to elicit a toxic response, the Agency has considered this study usable for regulatory purposes and has established a free-standing NOEL of 3,000 ppm (approximately 150 mg/kg/day) (ref. Proposed Rule 60 FR 13941).

iii. *Reference dose*. Based on the demonstrated lack of significant developmental or reproductive toxicity BASF believes that the RfD used to assess safety to children should be the same as that for the general population, 0.09 mg/kg/day. Using the conservative exposure assumptions described above, BASF has concluded that the most sensitive child population is that of children ages 1 to 6. BASF calculates the exposure to this group to be approximately 85% of the RfD for all uses (including those proposed in this document). Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of sethoxydim, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level has not been established for sethoxydim on artichoke, caneberry, leafy vegetables (except Brassica), root and tuber vegetables, cilantro, grapes, succulent beans, bean forage, soybeans or raisins by the Codex Alimentarius Commission. Individual countries have established tolerances on beans ranging from 0.1 to 5.0 ppm and soybeans ranging from 0.05 ppm to 5.0 ppm. No tolerances have been established for grapes in other countries. The proposed tolerances for leafy vegetables (except Brassica), cilantro, and root and tuber vegetables at 4.0 ppm are consistent with the international tolerances as they fall within the range of established tolerances and reflect the differences in application parameters and conditions (e.g., application rate, pre-harvest intervals, and environmental conditions). (Hoyt Jamerson).

3. K-I Chemical U.S.A., Inc.

PP 8F4941

EPA has received a pesticide petition (PP8F4941) from K-I Chemical U.S.A., Inc., Westchester Financial Center, 11 Martine Avenue, 9th Floor, White Plains, NY 10606 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of cyclohexanecarboxylic acid, 3, 5-dioxo-4-(1-oxopropyl)-, ion(1-), calcium, calcium salt in or on the raw agricultural commodity peanut nutmeat and hay at 0.8 and 0.4 ppm respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism in plants (peanuts) is adequately understood.

2. *Analytical method*. The proposed analytical method involves homogenization, extraction, filtration, partition and cleanup, methylation and analysis by a gas chromatography system with a mass selective detector. The limit of quantitation is 0.05 ppm.

3. *Magnitude of residues*. Peanut trials were conducted with prohexadione calcium in the principle peanut growing regions of the country (NC, SC, GA, AL, FL, OK, TX). Prohexadione calcium was applied to peanuts 3- times at the rate of 0.125 lbs ai/A. Peanut hay and nutmeat were analyzed for residues of prohexadione (free acid). Prohexadione residues in the nutmeat ranged from <0.05 to 0.30 ppm. Residues in hay ranged from <0.05 to 0.26 ppm. A study was conducted to determine the level of prohexadione calcium derived resides in or on processed commodites.

The proposed tolerance for prohexadione calcium in/on peanut nutmeat is 0.8 ppm and it is calculated by converting the highest peanut nutmeat RAC ppm for prohexadione (0.3 ppm) to prohexadione calcium equivalents (0.36 ppm), correcting for 50% storage stability loss (0.72), and rounding up to 0.8 ppm. The proposed tolerance for prohexadione calcium in/on peanut hay is 0.4 ppm and it is calculated by converting the highest peanut hay RAC ppm for prohexadione (0.26 ppm) to prohexadione calcium equivalents (0.31 ppm) and rounding up to 0.4 ppm.

Peanut samples treated at an exaggerated rate were processed into peanut meal and refined oil. Peanut nutmeat and processed commodities were analyzed for prohexadione. Residues in the meal were less than in the nuts, and no residues were detected in the refined oil. Therefore, there was no concentration of prohexadione residues in processed commodities.

B. Toxicological Profile

1. *Acute toxicity*. Based on available acute toxicity data prohexadione calcium does not pose any acute toxicity risks. The acute toxicity studies place technical prohexadione calcium in

acute toxicity category III for acute dermal; and in acute toxicity category IV for acute oral, acute inhalation, eye irritation, and skin irritation and the technical material is not a skin sensitizer.

2. *Genotoxicty*. Ames Test (1 Study; point mutation): Negative; *In Vitro* V79 Cells CH/HGPRT Locus Mammalian Cell Mutation Assay (1 Study; point mutation): Negative; *In Vitro* CHO Cytogenetic Assay (1 Study; Chromosome Damage): Negative; *In Vivo* Mouse Micronucleus (1 Study; Chromosome Damage): Negative; *In vivo* Rat Bone Marrow Cytogenetic Assay (1 Study; Chromosomal Damage): Negative; Rec Assay (1 Study; DNA damage and repair): Negative; *In Vitro* Rat Hepatocyte (1 Study; DNA damage and repair): Negative.

Prohexadione calcium has been tested in a total of 7 genetic toxicology assays consisting of *in vitro* and *in vivo* studies. Based on the results described above, it can be stated in summary that prohexadione calcium did not show any mutagenic activity when tested under the conditions of the studies mentioned above. Therefore, prohexadione calcium does not pose a mutagenic hazard to humans.

3. *Reproductive and developmental toxicity-developmental toxicity*— i. *Rat*. A developmental study was conducted via oral gavage in rats with dosages of 0, 100, 300, and 1,000 higest dose tested (HDT) mg/kg/day with a No-Adverse-Effect Level (NOAEL) of 1,000 mg/kg/day the HDT for developmental and maternal toxicity based on the fact that no effects were observed for any test parameter measured in this study. Therefore, these NOAEL values are significantly higher than the NOAEL from the 1-year feeding study in dogs used to establish the RfD.

ii. *Rabbit*. A developmental study was conducted via oral gavage in rabbits with dosages of 0, 40, 200, and 750 (HDT) mg/kg/day with a development toxicity NOAEL of 40 mg/kg/day and a maternal toxicity NOAEL of 40 mg/kg/day based on the following: (a) Excessive maternal mortality of 4/20 and 16/20 was observed in the 200 and 750 mg/kg/day dose levels tested, respectively; (b) significant weight loss was similarly observed in the 200 and 750 mg/kg/day dose group with accompanying clinical signs; (c) microscopic findings in the 750 mg/kg/day dose group revealed stomach erosion and lung congestion in many of the animals that died; (d) in the 40 mg/kg/day dose group a single rabbit lost its righting reflex and showed splayed limbs on day 25 due to a back injury it sustained; and (e) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested (DLT), however due to the mortality seen in the 200 and 750 mg/kg/day dose groups and limited number of fetuses produced at these dose levels, an additional study was performed. (It should be noted that a oral gavage range-finding study of six rabbits per dose level was performed at dose levels of 0, 100, 250, 500, and 1,000 mg/kg/day, in which similar excessive mortality was observed in the 500 and 1,000 mg/kg/day dose groups test as shown above. Additionally, body weight was affected for all dose groups tested and the clinical signs and macroscopic findings observed in the study discussed above were also noted in the range-finding study. However, body weight gain (BWG) was not affected in the lowest dose group tested.)

The doses selected for the additional teratology study in the same strain of rabbits were 0, 30,75, and 150 mg/kg/day with a development toxicity NOAEL of 150 mg/kg/day and a maternal toxicity NOAEL that could not be determined in this study based on the following: (a) one low-, two mid-, and three high-dose animals died prior to cesarean section on day 29, however, at the high dose group one cause of death was determined to be due to gavage error during test substance administration, another dam in this dose level died as a result of pneumonia, and all other deaths could not be determined; (b) at cesarean section one to three animals/test group were found to be not pregnant, but this was not considered to be dose related; (c) as a result of the unusual sex ratio in the control group, a statistically significant change in sex distribution was found at the low dose group level, however, these finding in b and c were not dose dependent and were considered to be within the range of historical control data of this laboratory, they were not regarded as treatment related; and (d) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested, however due to the inconsistent mortality (0 (control)-1-2-1) seen at all treated dose levels, an additional study with a range-finder was performed at a different independent laboratory.

An oral range-finding gavage teratology study in the same strain of rabbits (5 animals/dose level) was examined in another independent laboratory. The dose levels selected were 0, 20,100, 250, 500, and 1000 mg/kg/day. The finding in this study consist of the following: (a) one animal died in the 500 and 1,000 mg/kg/day dose groups, however, the animal which died in the 500 mg/kg/day dose group was due to administration error detected after necropsy; (b) no clinical signs were noted and body weights was unaffected throughout gestation, however, bwg and food consumption was effected temporarily from 250 mg/kg/day onwards during the early stages of test substance administration (day 6 to 9 of gestation); (c) the number of viable fetuses and fetal weights were unaffected; and (d) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested.

Based on these results the dose levels selected for the main study at this independent laboratory were 0, 30, 100, and 350 mg/kg/day with a development toxicity NOAEL of 350 mg/kg/day and a maternal toxicity NOAEL of 100 mg/kg/day based on the following: (a) clinical signs were restricted to premature delivery in 2 dams at the 350 mg/kg/day dose level; (b) average body weights and food intake was not affected at any dose levels tested, however, body weight gain was temporarily affected at the beginning of test substance administration period at the high dose group level; and (c) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested.

4. *Conclusions from the teratology studies*. Conflicting results have been reported from one laboratory (initial laboratory) at comparable dose levels using the same study protocol with respect to maternal toxicity in New Zealand White rabbits. The conclusion from the second study that maternal toxicity is obvious by effects on body weight during test substance administration and the death of one out of 20 does at the low dose level (30 mg/kg/day) does not appear to be plausible because:

i. Mortalities in this study showed no dose depended trend (O (control)-l-2-1). The cause of death of the other four animals including the one of the 30 mg/kg body weight group remained undetermined even after necropsy. Typical treatment related signs (gastric lesions) as described at high doses in range-finding or main studies were not reported. Furthermore no mortality was observed up to 350 mg/kg/day (approximately 12-fold the NOAEL of 30 mg/kg in question) in a collective of 54 dams (three test groups) of the same strain of rabbits under comparable experimental conditions in the independent different laboratory.

ii. The effect on body weight gain showed no statistical significance at 30 mg/kg body weight and the standard deviation was high. In addition, at the dose of 40 mg/kg/day there was no effect in the same strain of rabbits examined by the same laboratory in a previous study and no effect on body weight, body weight gain or food consumption were noted at doses of 30 or 100 mg/kg/day in a study performed in the same animal strain by the independent laboratory.

Thus the following overall NOAELs can be derived for the teratology studies:

a. *NOAEL maternal toxicity*. 100 mg/kg body weight (rabbit) and 1,000 mg/kg body weight (rat).

b. *NOAEL prenatal toxicity*. 100 mg/kg body weight (rabbit) and 1000 mg/kg body weight (rat).

The overall NOAEL on maternal toxicity in rabbits is based on the independent laboratory rabbit study due to reduction of bwg and food intake at dose levels of 250 mg/kg body weight onwards.

The NOAEL (100 mg/kg body weight) for prenatal toxicity in rabbits is based on abortions observed at doses equal or above 200 mg/kg body weight. The NOAEL for malformations and other developmental effects is even higher (350 mg/kg body weight). Due to excessive lethality of dams at doses above this value, no evaluation of fetuses was possible. No teratogenic effects have been observed up to the HDT of 350 mg/kg BW which could be evaluated for developmental effects.

The teratogenicity study in rabbits resulted in a developmental toxicity NOAEL of 100 mg/kg and a maternal toxicity NOAEL of 100 mg/kg. These NOAEL values are higher than the NOAEL from the 1-year feeding study in dogs used to establish the RfD.

B. Reproductive Toxicity

A 2-generation reproduction study with rats fed dosages of 0, 500, 5,000, and 50,000 ppm with a reproductive/developmental NOAEL of 50,000 ppm and a maternal/parental/offspring toxicity NOAEL of 500 ppm based on the following: (1) mortalities were noted for two mid-dose males (week 7 or 11), two males and one female of the high-dose (week 1), and one female died on gestation day 13 without visible abnormalities prior to death; (2) in the high-dose parental F0 and F1 statistically significant decreased body weights and increased water consumption was observed; (3) in the mid-dose level similar reduced body weights were observed in the F1 offspring and F1 parents and with increased water consumption being seen in the F0 and F1 animals; (4) for both high-dose generations, offspring growth was slightly reduced; (5) microscopic lesions in the glandular and non-glandular stomach consisting of papillary ancadthosis, diffuse ancanthosis, and hyperkeratosis were observed in male and female rats of the mid-dose and high-dose levels tested with slight progression of severity from the mid- to upper dose level; and (6) no effects on reproductive or fertility parameter was observed for any dose group tested.

Therefore, these NOAEL values are similar for maternal toxicity and significantly higher for reproductive effects (above the limit dose of 1,000 mg/kg/day) than the NOAEL from the 1-year feeding study in dogs used to establish the RfD.

1. *Subchronic toxicity*— teratology— *Rat*. A developmental study was conducted via oral gavage in rats with dosages of 0, 100, 300, and 1,000 HDT mg/kg/day with a NOAEL of 1,000 mg/kg/day the HDT for developmental and maternal toxicity based on the fact that no effects were observed for any test parameter measured in this study.

2. *Teratology— Rabbits*. A developmental study was conducted via oral gavage in rabbits with dosages of 0, 40, 200, and 750 (HDT) mg/kg/day with a development toxicity NOAEL of 40 mg/kg/day and a maternal toxicity NOAEL of 40 mg/kg/day based on the following: (a) excessive maternal mortality of 4/20 and 16/20 was observed in the 200 and 750 mg/kg/day dose levels tested, respectively; (b) significant weight loss was similarly observed in the 200 and 750 mg/kg/day dose group with accompanying clinical signs; (c) microscopic findings in the 750 mg/kg/day dose group revealed stomach erosion and lung congestion in many of that animals that died; (d) in the 40 mg/kg/day dose group a single rabbit lost its righting reflex and showed splayed limbs on day 25 due to a back injury it sustained; and (e) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested, however due to the mortality seen in the 200 and 750 mg/kg/day day dose groups and limited number of fetuses produced at these dose levels, an additional study was performed. (It should be noted that an oral gavage range-finding study of six rabbits per dose level was performed at dose levels of 0, 100, 250, 500, and 1,000 mg/kg/day, in which similar excessive mortality was observed in the 500 and 1,000 mg/kg/day dose groups test as shown above. Additionally, body weight was affected for all dose groups tested and the clinical signs and macroscopic findings observed in the study discussed above were also noted in the range-finding study. However, body weight gain was not affected in the lowest dose group tested.)

The doses selected for the additional teratology study in the same strain of rabbits were 0, 30, 75, and 150 mg/kg/day with a development toxicity NOAEL of 150 mg/kg/day and a maternal toxicity NOAEL that could not be determined in this study based on the following: (a) one low-, two mid-, and three high-dose animals died prior to cesarean section on day 29, however, at the high dose group one cause of death was determined to be due to gavage error during test substance administration, another dam in this dose level died as a result of pneumonia, and all other deaths could not be determined; (b) at cesarean section one to three animals/test group were found to be not pregnant, but this was not considered to be dose related; (c) as a result of the unusual sex ratio in the control group, a statistically significant change in sex distribution was found at the low dose group level, however, these finding in (b) and (c) were not dose dependent and were considered to be within the range of historical control data of this laboratory, they were not regarded as treatment related; and (d) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested, however due to the inconsistent mortality (0 (control)-1-2-1) seen at all treated dose levels, an additional study with a range-finder was performed at a different independent laboratory.

An oral range-finding gavage teratology study in the same strain of rabbits (5 animals/dose level) was examined in another independent laboratory. The dose levels selected were 0, 20, 100, 250, 500, and 1000 mg/kg/day. The finding in this study consist of the following: (a) one animal died in the 500 and 1,000 mg/kg/day dose groups, however, the animal which died in the 500 mg/kg/day dose group was due to administration error detected after necropsy; (b) no clinical signs were noted and body weights was unaffected throughout gestation, however, body weight gain and food consumption was effected temporarily from 250 mg/kg/day onwards during the early stages of test substance administration (day 6 to 9 of gestation); (c) the number of viable fetuses and fetal weights were unaffected; and (d) no teratogenic effects, as well as incidence of malformations and developmental

effects were observed at any dose level tested.

Based on these results the dose levels selected for the main study at this independent laboratory were 0, 30, 100, and 350 mg/kg/day with a development toxicity NOAEL of 350 mg/kg/day and a maternal toxicity NOAEL of 100 mg/kg/day based on the following: (1) clinical signs were restricted to premature delivery in 2 dams at the 350 mg/kg/day dose level; (2) average body weights and food intake was not affected at any dose levels tested, however, body weight gain was temporarily affected at the beginning of test substance administration period at the high dose group level; and (3) no teratogenic effects, as well as incidence of malformations and developmental effects were observed at any dose level tested.

3. *Conclusions from the teratology studies*. i. Conflicting results have been reported from one laboratory (initial laboratory) at comparable dose levels using the same study protocol with respect to maternal toxicity in New Zealand White rabbits. The conclusion from the second study that maternal toxicity is obvious by effects on body weight during test substance administration and the death of one out of 20 does at the low dose level (30 mg/kg/day) does not appear to be plausible because: i. Mortalities in this study showed no dose depended trend (O (control)-l-2-1). The cause of death of the other four animals including the one of the 30 mg/kg body weight group remained undetermined even after necropsy. Typical treatment related signs (gastric lesions) as described at high doses in range-finding or main studies were not reported. Furthermore no mortality was observed up to 350 mg/kg/day (approximately 12-fold the NOAEL of 30 mg/kg in question) in a collective of 54 dams (three test groups) of the same strain of rabbits under comparable experimental conditions in the independent different laboratory.

ii. The effect on BWG showed no statistical significance at 30 mg/kg body weight and the standard deviation was high. In addition, at the dose of 40 mg/kg/day there was no effect in the same strain of rabbits examined by the same laboratory in a previous study and no effect on body weight, BWG or food consumption were noted at doses of 30 or 100 mg/kg/day in a study performed in the same animal strain by the independent laboratory.

iii. Thus the following overall NOAELs can be derived for the teratology studies:

iv. NOAEL maternal toxicity. 100 mg/kg body weight (rabbit) and 1,000 mg/kg body weight (rat).

v. NOAEL prenatal toxicity. 100 mg/kg body weight (rabbit) and 1,000 mg/kg body weight (rat).

The overall NOAEL on maternal toxicity in rabbits is based on the independent laboratory rabbit study due to reduction of BWG and food intake at dose levels of 250 mg/kg body weight onwards.

The NOAEL (100 mg/kg body weight) for prenatal toxicity in rabbits is based on abortions observed at doses equal or above 200 mg/kg body weight. The NOAEL for malformations and other developmental effects is even higher (350 mg/kg body weight). Due to excessive lethality of dams at doses above this value, no evaluation of fetuses was possible. No teratogenic effects have been observed up to the highest dose level of 350 mg/kg body weight which could be evaluated for developmental effects.

4. *Chronic toxicity*. Based on review of the available data, the Reference Dose (RfD) for prohexadione calcium will be based on a 1-year feeding study in dogs with a threshold NOAEL of 20 mg/kg/day. Using an uncertainty factor of 100, the RfD is calculated to be 0.2 mg/kg/day. The following are summaries of studies submitted to EPA.

i. *Chronic feeding - Nonrodent*. A 1-year feeding study in dogs fed dosages of 0, 20, 200, or 1,000 mg/kg/day (HTD) with a NOAEL of 20 mg/kg/day for female and male dogs based on the following effects: (a) clinical signs consisting of pale colored feces were observed with the highest incidence being recorded at HDLT; (b) slightly reduced clinical chemical values were observed in high dose male and female dogs for serum albumin and potassium and increased phosphorus levels for both male and female dogs of the HDT; (c) red blood cell parameters (packed cell volume, hemoglobin, and red blood cell count) were slightly lower at the HDT for males and females dogs, only red blood cell counts were reduced in the male and female dogs at the 200 mg/kg/day dose level in week 52; and (d) histopathological examination revealed dilated/basophilic renal cortical tubules with and without fibrosis in both male and female dogs at the 200 and 1,000 mg/kg/day dose levels.

ii. *Chronic feeding/oncogenicity — Rats*. A combined chronic/oncogenicity in rats (Fischer 344) fed dosages of 0, 18, 94, 469, and 968 mg/kg/day for male rats and 0, 22, 114, 572, and 1,180 mg/kg/day for female rats with a NOAEL of 94 mg/kg/day for male rats and 114 mg/kg/day for female rats based on the following effects: (a) decreased in body weights were observed in both male and female rat at the 968 and 1,180 mg/kg/day DLT; (b) clinical chemical effects (i.e., lower potassium, bilirubin, and glucose levels) were observed in male and female rats at the 968 and 1,180 mg/kg/day DLT, in the 469 mg/kg/day dose level, reduced glucose levels were only seen in the males, and increased albumin/globulin ratios, sodium, chloride and calcium levels were observed only in the 1,180 mg/kg/day dose level in females; (c) increased urine volumes and lower specific gravity were observed in the mid-high and high-dose groups for both male and female rats; (d) minor changes in organ weights were noted for animals of the high dose group only, which consisted of increased relative liver, adrenal and kidney weights, the latter also absolute in females only, at week 26; at the end of the study decreased liver weights and increased relative brain and testis weights were noted and these changes were considered to be associated with the decreased body weights; (e) macroscopic finding revealed an increase of pituitary nodules in the high dose group tested for male and female rats which was not confirmed histopathologically and submucosal ectopic tissue in the glandular stomach was found in both male and female rats in the highest dose levels that was confirmed by histopathology which showed an increase of squamous cell hyperplasia in males and of basal cell hyperplasia in the forestomach at this dose level; (f) a higher incidence of cellular hyperplasia was observed in the thyroid in the mid-high and high dose levels for male and female rats; and (g) no increased incidence of neoplasms occurred at any dose levels tested in this study.

iii. *Oncogenicity - Mice*. A carcinogenicity study in B6C3F1 mice fed dosages of 0, 55, 279, 2,847, and 5,911 mg/kg/day for male mice and 0, 68, 351, 3,489, and 7334 mg/kg/day for female mice with a NOAEL of 279 mg/kg/day for male mice and 351 mg/kg/day for female mice based on the following effects: (a) statistically significant decreases in body weights were observed in male mice at the 2,847 and 5,911 mg/kg/day dose levels and in female mice at the 7,334 mg/kg/day dose levels tested; (b) a variety of changes in hematological parameter was noted in the respective investigations at weeks 52, 78, and 104, however, most of the changes were not dose related or consistent over time; (c) increased absolute and/or relative heart, brain, testes, liver, ovary, and kidney weights

were observed in the mid-high and highest dose group test with a slight progression of severity to the highest dose group tested; (d) a higher incidence of splenomegaly was observed only in the male mice of the highest dose group; (e) histopathological examinations revealed an ectopic proliferation of the mucosal and glandular epithelium in the submucosal layer of the glandular stomach in male and female mice in the highest dose group tested, these changes were assessed to represent heteroplastic, ectopic proliferative changes accompanied by lumen dilatation and cytological degeneration; (f) a higher incidence of hyperkeratosis of the forestomach was observed in both male and female mice and hyperplasia of the squamous epithelium of the forestomach of female male mice was observed in the highest dose group tested; (g) vacuolic changes in the exocrine pancreas of the high dose female was observed; (h) no increased incidence of neoplasms occurred at any dose levels tested in this study.

iv. *Carcinogenicity*. Prohexadione calcium was shown to be non-carcinogenic in mice, rats, and dogs. Therefore, based on the results of the carcinogenicity studies in mice, rats, and dogs and the results of genotoxicity testing, the threshold approach to regulating prohexadione calcium is appropriate

5. *Animal metabolism*. The metabolism in animals (goats and poultry) is adequately understood.

6. *Endocrine disruption*. No specific tests have been conducted with prohexadione calcium to determine whether the chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies, *i.e.*, teratology and multi-generation reproductive studies, which would suggest that prohexadione calcium produces endocrine related effects.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure, K-I has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the proposed tolerance for prohexadione calcium in/on peanut nutmeat at 0.8 ppm. The TMRC is a ''worse case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are always found at the tolerance levels. Dietary exposure to residues of prohexadione calcium in or on food will be limited to residues on peanut nutmeat. Peanut hay and meal are fed to animals; thus exposure of humans to residues in peanut hay and meal might result if such residues carry through to meat, milk, poultry, or eggs. However, K-I has concluded that there is no reasonable expectation that measurable residues of prohexadione calcium will occur in meat, milk, poultry, or eggs from this use. There are no other established U.S. tolerances for prohexadione calcium, and there are no currently registered uses for prohexadione calcium on food or feed crops in the U.S.

Dietary exposure to residues of prohexadione calcium from the proposed tolerances on peanuts would account for less than 0.14% of the RfD (0.20 mg/kg/day) for the general population of the US and all subpopulation groups. The most highly exposed group in the subpopulation groups would be non-nursing infants (< 1 year old), which uses 0.39% of the RfD.

2. *Drinking water*. Other potential sources of exposure to prohexadione calcium for the general population are residues in drinking water and exposure from non-occupational sources. Exposure to residues of prohexadione calcium in drinking water is not anticipated. There is no established Maximum Concentration Level (MCL) or Health Advisory Level (HAL) for prohexadione calcium under the Safe Drinking Water Act (SDWA).

3. *Non-dietary exposure*. Prohexadione calcium is not currently registered for any nonagricultural use. The potential for non-occupational exposure to the general population is therefore not present.

D. Cumulative Effects

The potential for cumulative effects of prohexadione calcium and other substances that have a common mechanism of toxicity has been considered. No evidence or information exists to suggest that toxic effects produced by prohexadione calcium would be cumulative with those of any other chemical compound.

E. Safety Determination

1. *U.S. population— Reference dose (RfD)*. Using the conservative exposure assumptions described above and based on the completeness and the reliability of the toxicity data, it has estimated that aggregate exposure to prohexadione calcium will utilize 0.14% of the RfD for the U.S. population. K-I concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to residues of prohexadione calcium, including anticipated dietary exposure and non-occupational exposures.

2. *Infants and children*. Since developmental and reproductive toxicity occurs at levels at or above the levels shown to exhibit parental toxicity and since these levels are significantly higher than those used to calculate the RfD, K-I believes the RfD of 0.20 mg/kg/day is an appropriate measure of safety for infants and children.

Using the conservative exposure assumptions described above, it is concluded that the portion of the RfD that will be utilized by aggregate exposure to residues of prohexadione calcium resulting from the proposed tolerances will be less than 0.14% for all populations of infants and children. The most highly exposed group in the subpopulation groups would be non-nursing infants (< 1 year old) which uses 0.39% of the RfD. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of prohexadione calcium, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level has not been established for prohexadione calcium by the Codex Alimentarius Commission.

[FR Doc. 98–20768 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–818; FRL–6017–1]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–818, must be received on or before September 4, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division

(7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Sidney Jackson	Rm. 268, CM #2, 703–305–7610, e-mail:jackson.sidney@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Beth Edwards	Rm. 206, CM #2, 703–305–5400, e-mail: edwards.beth@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–818] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 23, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Interregional Research Project 4 (IR-4)

PP 6E4667

EPA has received a pesticide petition (PP 6E4667) from the Interregional Research Project 4(IR4), proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of pyridate, 0-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl carbonothioate and its metabolite 6-chloro-3-phenyl-pyridazine-4-ol (known as SAN 1367), and conjugates of SAN 1367 in or on the raw agricultural commodity garbanzo beans (also known as chick peas) at 0.1 ppm.

EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. This notice contains a summary of the petitions prepared by Novartis Crop Protection, Inc. (formerly Sandoz Agro Inc.), the registrant.

2. Novartis Crop Protection, Inc.

PP 6F4754

EPA has received a pesticide petition (PP 6F4754) from Novartis Crop Protection, Inc, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of pyridate, 0-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl carbonothioate and its metabolite 6-chloro-3-phenyl-pyridazine-4-ol (known as SAN 1367), and conjugates of SAN 1367 in or on the raw agricultural commodities head and stem Brassica Subgroup 5A at 0.3 parts per million (ppm). (Sidney Jackson)

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of pyridate in plants is well understood based on studies with broccoli, corn, and peanut. Pyridate is rapidly broken down by hydrolysis to its major degradation product, SAN 1367. The SAN 1367 metabolite is further conjugated to glucoside and degraded.

2. *Analytical method*. The proposed analytical method is ''Method of analysis of determination of residues of pyridate and its metabolites CL 9673

and conjugated CL 9673 in plant materials'', Report No. 758e, March 1992, Agrolinz Agrarchemikalien Ges.m.b.H. (V/6).

3. *Magnitude of residues*. Residue trials have been conducted with pyridate on the additional crops requested in the pending petitions. The proposed tolerances are recommended at the limit of determination for the method, which is the maximum expected residue from the geographically representative field trial data.

Pyridate strongly adsorbs to soil and was shown to be immobile in soil column leaching studies. Pyridate has a short half-life, low water solubility, and low volatility. Due to its solubility and hydrolysis characteristics, pyridate will not persist in the environment.

San 1367 is further degraded and mineralized to volatile CO2 and bound metabolites. It is susceptible to photolysis. Column leaching studies and field dissipation studies indicated that SAN 1367 tends to degrade faster than it is translocated below the 0-15 cm layer. Therefore under typical agricultural conditions and labeled uses, leaching of SAN 1367 is not an issue of concern.

B. Toxicological Profile

Data are summarized below concerning the mammalian toxicity of pyridate. According to Novartis' interpretation of these data, pyridate is not a carcinogen or a mutagen, has low oral and dermal toxicity to mammals, and causes no reproductive or developmental effects.

1. *Acute toxicity*. Results of a rat acute oral study showed a lethal dose LD_{50} of 4,690 milligram/kilogram (mg/kg) body weight/day (bwt/day) (5,993 mg/kg in males and 3,544 mg/kg in females). In a rat acute dermal study, the LD_{50} was shown to be >2,000 mg/kg. A rat acute inhalation study yielded a LD_{50} >4.37 mg/milliliter (ml).

Results of a primary eye irritation study in the rabbit indicated that pyridate is a mild irritant. A primary dermal irritation study showed pyridate to be a moderate skin irritant, whereas, a dermal sensitization study indicated it is a sensitizer.

2. *Genotoxicity*. Pyridate was tested in the Ames test, mouse micronucleus assay, chromosome aberration assay with Chinese hamster ovary cells, the REC assay, and rat hepatocyte unscheduled DNA synthesis assay. Results were negative for mutagenicity and chromosome aberrations.

3. *Reproductive and developmental toxicity*. A developmental toxicity study in the rat dosed at 0, 55, 165, 400, and 495 milligram/kilograms/day (mg/kg/day) showed maternal toxicant no-observed effect level (NOEL) of 165 mg/kg/day, and developmental NOEL >495 mg/kg/day.

A developmental toxicity study in the rabbit with doses of 0, 150, 300, and 600 mg/kg/day showed a maternal toxicant NOEL of 300 mg/kg/day and developmental NOEL >600 mg/kg/day.

Results of a multi-generational reproduction study with rats dosed at 0, 2.2, 10.8, and 67.5 mg/kg/day showed a NOEL of 10.8 mg/kg/day for maternal and developmental toxicity.

4. *Subchronic toxicity*. Results of a 21-day dermal study showed a NOEL >1,000 mg/kg. A 90-day feeding study in rat dosed at 0, 62.5, 177, and 500 mg/kg/day showed a NOEL of 62.5 mg/kg/day. No neuropathological effects were found. A 90-day feeding study in dogs with doses of 0, 20, 60 and 200 mg/kg/day showed a NOEL of 20 mg/kg/day. Slight degenerative myelopathy in the peripheral nerves was observed at the highest dose level (HDL), which is much higher than the NOEL and the expected exposure from field use.

5. *Chronic toxicity*. A 1-year feeding study in dogs was conducted with doses of 0, 5, 20 and 60 mg/kg/day for 34-weeks. After week 34, the doses were increased to 30, 100, and 150 mg/kg/day because no toxic effects were evident at the lower doses. The final results showed a systemic NOEL of 20 mg/kg/day.

A lifespan (121 week) chronic/carcinogenicity study in rats treated with analytical levels of 0, 2.2, 10.8, and 67.5 mg/kg/day (equivalent to 0, 48, 240, and 1,500 ppm) showed a systemic NOEL of 10.8 mg/kg/day (240 ppm) based on body weight depression. No carcinogenic potential was observed.

In an 18- month carcinogenicity study, mice were fed doses of 0, 400, 800, 1,600 and 7,000 ppm of pyridate. In males, dose levels were approximately 0, 47.7; 97.1; 169.5, and 882.6 mg/kg bwt/day; in females, dose levels were approximately 0, 54.5, 114.6, 204.3, and 1,044.6 mg/kg bwt/day. NOEL was 800 ppm (97.1 mg/kg in males and 114.6 mg/kg in females). Results showed no evidence of carcinogenicity.

i. *Chronic effects*. The Reference Dose (RfD) has been established based on the chronic toxicity database. The RfD = 0.11 mg/kg bwt/day based on the NOEL of 10.8 mg/kg bwt/day from the lifespan rat oncogenicity study due to body weight depression in males, and assuming a safety factor of 100.

ii. *Acute effects*. Acute dietary analysis compared the daily dietary exposure to the lowest NOEL for subchronic studies. EPA's current policy for Tier I analysis uses the conservation assumption that all residues are at a high end estimate or maximum, typically taken as the tolerance value. Acute dietary assessment for pyridate was generated by comparing the ratio of exposure and the NOEL from the 90-day feeding study in dogs of 20 mg/kg bwt/day to determine a margin of exposure (MOE). The exposure estimate includes all current and pending tolerances from Novartis Agro, Inc. and IR-4. MOE of 100 or more are considered acceptable. For all subgroups evaluated, the MOE is greater than 140,000.

iii. *Carcinogenicity*. Existing data demonstrate that there is no evidence of carcinogenicity in rats at 1,500 ppm (67.5 mg/kg/day) or mice at 7,000 ppm (883 mg/kg bwt/day in males, and 1,044.6 mg/kg bwt/day in females). These data have been obtained at dosing in excess of any dietary exposure.

6. *Animal metabolism*. Pyridate has been tested in rats, dogs, cattle,goats, and hens. In every study, pyridate was hydrolyzed to SAN 1367 and rapidly excreted, primarily through the urine as SAN 1367 or its glucoside or glucuronide conjugates.

Data from bovine metabolism and feeding studies established that the uses proposed do not yield secondary residues in meat and milk above the limit of detection. Novartis believes that data from metabolism and feeding studies in poultry established that at the maximum expected dietary burden from crops treated with pyridate will not result in quantifiable residues above the limits of the analytical method. Pyridate and its metabolites are not persistent and do not accumulate in animal systems.

7. *Metabolite toxicology*. Pyridate has been tested in rats, dogs, cattle, goats, and hens. In every study, pyridate was hydrolyzed to SAN 1367 and rapidly excreted, primarily through the urine as SAN 1367 or its glucoside or glucuronide conjugates. Pyridate and its metabolites are not persistent and do not accumulate in animal systems.

C. Aggregate Exposure

Based on environmental fate data, pyridate is not expected to be found in drinking water. There are no non-crop uses for pyridate, and no non-occupational exposure for residential use. Exposure would be limited to dietary exposure described below. Novartis Agro has no information that would indicate that pyridate would have a mechanism of toxicity common to any other registered pesticide.

1. *Dietary exposure—food*. Pyridate is registered for use in corn, peanut, and cabbage. The pending petitions add the use in grain sorghum, collards, and the stem and head Brassica subgroup. The potential dietary exposure of the population to residues of pyridate or its metabolites is calculated based on Theoretical Maximum Residue Contribution (TMRC) for all crops with pyridate use. The TMRC is a worst case estimate of dietary exposure since it assumes that 100% of all crops for which tolerances are established are treated with pyridate, and that pesticide residues are present at the tolerance levels. Novartis maintains that this method of calculation result in an overestimation of the exposure and is considered conservative. Dietary exposure is not expected in meat, milk, poultry, or eggs, based on cow and hen feeding studies, animal metabolism studies, and the fact the residue studies indicate that residues are not present in crops fed to animals above the limit of detection.

2. *Drinking water*. Drinking water is not expected to be a means of exposure to pyridate. Environmental studies indicate that pyridate binds to the soil and is rapidly hydrolyzed into its metabolites. The metabolites are then photolyzed and further degraded and finally mineralized to CO_2. Leaching studies and lysimeter studies indicate that under typical agricultural conditions, neither pyridate nor its metabolites were detected below 30 cm. Groundwater monitoring studies conducted in Europe have not confirmed any detection of pyridate or metabolites. Therefore significant movement of pyridate is not likely and is not a considerable factor in assessing human health risk.

3. *Non-dietary exposure*. There are no registered uses for pyridate on residential or recreational turf. Therefore, non-dietary exposure of pyridate is not likely and not a factor in assessing human health risk.

D. Cumulative Effects

Pyridate belongs to the pyridazine group of herbicidal compounds and has a unique mode of action in plants. Novartis does not have data to indicate a common mechanism of toxicity to other compounds in humans. Therefore, Novartis concludes that cumulative effects from common mechanisms of action are unlikely.

E. Safety Determination

1. *U.S. population*. The RfD is calculated to be 0.11 mg/kg bwt/day. The estimates of exposure are based on conservative assumptions that all crops with a tolerance for pyridate are treated and that all residues found are at the maximum or tolerance level. The dietary exposure to the U.S. population for the current uses plus the garbanzo beans and Brassica uses is estimated at most to be 0.000019 mg/kg/day, which is 0.017% of the RfD. Therefore Novartis concludes that there is reasonable certainty of no harm from aggregate exposure of residues of pyridate or its metabolites including all dietary and other non-occupational exposures.

2. *Infants and children*. Pyridate is not a reproductive or developmental toxicant. Therefore no specific effects on infants and children are expected. Based on the weight of evidence of the toxicity studies, Novartis concludes that an additional safety factor is not warranted.

Using the same assumptions as above, the exposure to infants and children is presented as a percent of RfD. The dietary exposure for the current uses plus the garbanzo beans and Brassica uses for non-nursing infants is estimated at 0.000045 mg/kg/day, which is 0.041% of the RfD. For children age 1-6, the estimated exposure is 0.000057 mg/kg/day, 0.052% of the RfD, and exposure to children age 7-12 is estimated to be 0.000044 mg/kg/day, which is 0.040% of the RfD. Therefore, Novartis concludes that there is reasonable certainty of no harm from aggregate exposure of residues of pyridate or its metabolites including all dietary and other non-occupational exposures.

F. International Tolerances

No international tolerances have been established by CODEX Alimentarius Commission (Sidney Jackson).

3. Valent U.S.A. Company

PP 7F3485, 1F3949, 6F4648

EPA has received a request from Valent U.S.A. Company, 1333 North California Boulevard, Suite 600, Walnut Creek, CA 94596-8025 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.466 by establishing tolerances for residues of fenpropathrin, alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate, in or on the raw agricultural commodities pome fruit (crop group 11) and grapes at 5.0 ppm, head and stem brassica (crop group 5A) at 3.0 ppm, citrus fruit (crop group 10) at 2.0 ppm, melons (crop group 9A) at 0.5 ppm, and in the processed products citrus oil at 50 ppm, raisins at 10 ppm, and dried citrus pulp at 4.0 ppm. The tolerances were first proposed in response to pesticide petitions PP 7F3485, 1F3949, and 6F4648. EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

Background Information and Use Profile

Fenpropathrin is the active ingredient in DANITOL 2.4 EC Spray (EPA Reg. No. 59639-35) and TAME 2.4 EC Spray (EPA Reg. No. 59639-77). To support DANITOL use, tolerances have been established on cottonseed; cottonseed oil; meat, meat byproducts, and fat of cattle, goats, hogs, horses, sheep and poultry; eggs; milkfat; peanuts; peanut hay; strawberries; and tomatoes. A time limited tolerance on red currants has been established to support a Section 18 in the state of Washington with an expiration date of December 31, 1998. The pending tolerances that are the subject of this notice of filing are on grapes and on the crop groups pome fruits (11), citrus (10), head and stem brassica (5A), and melons (9A), with associated processing products citrus oil, raisins, and dried citrus pulp.

Fenpropathrin is a pyrethroid insecticide with broad spectrum activity on insects and mites. When formulated as the product DANITOL 2.4 EC Spray the product is registered for agricultural use on outdoor terrestrial food crops. A separate fenpropathrin product, TAME 2.4 EC Spray, is registered for commercial, professional non-food use on indoor and outdoor ornamental and nursery stock. There are no uses registered for professional indoor pest control, termite prevention, homeowner use, or turf application.

The products are applied as dilute emulsions in water directly to plants to control harmful insects and mites. In agriculture, depending on the crop and pest, the use rates vary from 0.15 to 0.4 pounds of active ingredient per acre (lb. ai./a), with a maximum total use on all crops of 0.8 lb. ai./a per season. Pre-harvest intervals (phi) range from 21-days on cotton to 1-day on citrus. Plant metabolism studies have shown that the plant and animal residues are best defined as parent fenpropathrin. Because of the mode of application and short phi, finite residues of fenpropathrin are often found on treated agricultural commodities requiring tolerances above the 0.01 ppm limit of quantitation of the residue analytical methodology. However, analyses of RAC samples from plants treated at the

maximum application rates, and minimum retreatment intervals and phi demonstrate that anticipated residues are much below tolerance levels. In addition, it has been demonstrated that fenpropathrin is not plant systemic and that residues occur only on plant parts that have been directly treated.

A. Residue Chemistry

Summary. An extensive plant and animal metabolism data base demonstrates that the appropriate definition of aged fenpropathrin residue is parent. Ruminant and poultry metabolism followed by feeding studies have shown that the ratios of residues in feed to secondary residues in animal products are very low in most commodities, with higher (but still relatively low) ratios in body fat and milk fat. This section will describe metabolism and field residue data supporting the establishment of tolerances for residues of fenpropathrin in or on the raw agricultural commodities pome fruit (crop group 11) and grapes at 5.0 ppm, head and stem brassica (crop group 5A) at 3.0 ppm, citrus fruit (crop group 10) at 2.0 ppm, melons (crop group 9A) at 0.5 ppm, and in the processed products citrus oil at 50 ppm, raisins at 10 ppm, and dried citrus pulp at 4.0 ppm The approved analytical method is capillary gas-liquid chromatography with flame ionization detection.

1. *Plant metabolism*. The plant metabolism of fenpropathrin has been studied in five different crop plant species: cotton, apple, tomato, cabbage, and bean. Radiocarbon labeling has been in the cyclopropyl ring of the acid, in the aryl rings of the alcohol, and in the nitrile of fenpropathrin, a cyanohydrin ester. The permutations of radiocarbon label position and plant species yield a total of 17 separate, reviewed studies. Each of the studies involved foliar treatment of the plants under either greenhouse or field conditions and, while the actual treatment conditions and times to harvest and analyses varied from study to study, the results of the many studies are remarkably consistent. The total toxic residue is best defined as parent, fenpropathrin.

Fenpropathrin remains associated with the site of application and only traces are found in seeds (e.g., bean or cotton) or in other parts of the plant not directly exposed to the application. Much of the parent residue can be removed from the plant material with a mild hexane/acetone or hexane rinse, demonstrating that the residue is located on or near the outside surface of the plant material. The primary metabolic pathway for fenpropathrin in plants is similar to that in mammals. There are no qualitatively unique plant metabolites; the primary aglycones are identical in both plants and animals.

2. *Analytical method*. Adequate analytical methodology is available to detect and quantify fenpropathrin (and its metabolites) at residue levels in numerous matrices. The methods use solvent extraction and partition and/or column chromatography clean-up steps, followed by separation and quantitation using capillary column gas-liquid chromatography with flame ionization detection. The extraction efficiency has been validated using radiocarbon samples from the plant and animal metabolism studies. The enforcement methods have been validated at independent laboratories, and by EPA. The limit of quantitation for fenpropathrin in raw agricultural commodity samples is 0.01 ppm.

3. *Magnitude of residues*—i. *Pome fruit (Crop Group 11)*. The proposed section 408 tolerance for fenpropathrin in/on Pome Fruit (Crop Group 11) is 5.0 ppm. The proposed tolerance will permit finite residues of fenpropathrin on pome fruit -- apple, pear, oriental pear, crabapple, and related fruits -- as a result of application of DANITOL 2.4 EC Spray to orchards. The field residue data to support a fenpropathrin tolerance on the pome fruit crop grouping includes data on apples from 26 sites and pears from 18 sites providing data from 44 sites across the U.S. The mean residue from all samples is 1.83 ppm. In the subset of samples that exactly fit the proposed use pattern the average residue is 0.83 ppm (n = 16, σn -1 = 0.55 ppm) with a maximum value of 1.8 ppm.

ii. *Apples*. The residue data base from apples that supports the proposed crop group tolerance includes all samples from field residue studies that were treated two or more times at 0.4 lb. ai./a with a 14-day phi. These experiments were performed over 5- years at 26 sites in 10 states. There were 38 separate treatments yielding 73 separate, treated samples for analysis. The average residue was 2.15 ppm (n = 73,σn -1 = 1.37 ppm). These data do not include supporting information at higher or lower rates, and harvested at different phi. In the 38-treatment data base there are only four treatments with only two applications that are completely consistent with the proposed use pattern that is limited to a maximum single application rate of 0.4 lb. ai./a, a seasonal maximum of 0.8 lb. ai./a, and a 14 phi. The highest average residue (HAR) found in these crop field trials for fenpropathrin on apples was 1.13 ppm. The average residue was 0.77 ppm (n = 8, σn -1 = 0.40). Data obtained by separate analyses of peelings and pulp demonstrated that the bulk of fenpropathrin residues were located on the peeling of the apples.

Five apple processing studies were performed. These studies demonstrated that fenpropathrin residues did not concentrate in apple juice (concentration factor all <<1, average = 0.06), but did concentrate in wet pomace (average concentration factor = 3.05). No additional tolerance for the processed product wet apple pomace is needed because the HAR times the average concentration factor for wet pomace is less than the proposed tolerance of 5 ppm (1.13 ppm x 3.05 = 3.45 ppm).

iii. *Pears*. The residue data base from pears that supports the proposed crop group tolerance includes all samples from field residue studies that were treated two or more times at 0.4 lb. ai./a with a 14-day phi. These experiments were performed over 4-years at 18 sites in 5 states. There were 30 separate treatments yielding 60 separate, treated samples for analysis. The average residue was 1.44 ppm (n = 60, σn -1 = 1.01). This does not include supporting information at higher or lower rates, and harvested at different phi. In the 30-treatment data base there are only four treatments with only 2 applications that are completely consistent with the proposed use pattern, which is the same as in apples, and is limited to a maximum single application rate of 0.4 lb. ai./a, a seasonal maximum of 0.8 lb. ai./a, and a 14-day phi. The HAR found in these crop field trials for fenpropathrin on pears was 1.8 ppm. The average residue was 0.88 ppm (n = 8, σn -1 = 0.69).

iv. *Grapes*. The proposed section 408 tolerance for fenpropathrin on grapes is 5 ppm. The residue data base that supports the tolerance includes all samples from field residue studies that were treated 4- times at 0.2 lb. ai./a with a 21-day phi. Excluded from the calculation of the tolerance, and the chronic and acute exposure analyses is data from one site that were demonstrated to be outliers (The analytical determinations were very high, more than six sigma above the mean of the other determinations). These experiments were performed over 4-years at 14 sites in 4 states. There were 14 separate treatments yielding 28 separate, treated samples for analysis. The average residue was 1.06 ppm (n = 28, σn -1 = 0.71). This does not include supporting information at higher or lower rates, different numbers of applications, or different phi. The HAR

found in crop field trials for fenpropathrin on grapes was 3.1 ppm.

Four processing studies yielding raisins and juice, and 5 additional studies yielding grape juice only (total of 9), were performed. These studies demonstrated that fenpropathrin residues were greatly reduced in grape juice (concentration factor all <<1, average = 0.06), but did concentrate in raisins (average concentration factor = 1.76). An additional tolerance for the processed product raisins is needed because the HAR times the average concentration factor for raisins is greater than the proposed tolerance of 5 ppm (3.1 ppm x 1.76 = 5.55 ppm). A Section 408 tolerance for fenpropathrin on raisins of 10 ppm is proposed.

v. *Citrus*. The proposed Section 408 tolerance for fenpropathrin on citrus fruit (Crop Group 10) is 2 ppm. The residue data base from citrus that supports the tolerance includes all samples from field residue studies that were completely consistent with the proposed use pattern of 2 applications at 0.4 lb. ai./a with a 1-day phi. In oranges, the experiments were performed over 5-years at 13 sites in 4 states. There were 13 separate treatments yielding 24 separate, treated samples for analysis. The average residue in oranges was 0.39 ppm (n = 24, σn -1 = 0.35 ppm). In grapefruit, the experiments were performed in a single year at 7 sites in 3 states. There were 7 separate treatments yielding 14 separate, treated samples for analysis. The average residue in grapefruit was 0.29 ppm (n = 14, σn -1 = 0.13 ppm). In lemons, the experiments were performed in a single year at 3 sites in 2 states. There were 3 separate treatments yielding 6 separate, treated samples for analysis. The average residue in lemons was 0.52 ppm (n = 6, σn -1 = 0.06 ppm).

For the overall crop grouping citrus fruits the average residue was 0.37 ppm (n = 44, σn -1 = 0.28 ppm). The HAR found in all citrus crop field trials meeting the proposed use pattern for fenpropathrin on citrus was 1.2 ppm. These overall citrus data only include data from samples that are consistent with the proposed use pattern, and do not include supporting information at higher or lower rates, and harvested at different phi. Data obtained by separate analyses of peelings and pulp from oranges demonstrated that the bulk of fenpropathrin residues were located on the peeling, exterior, of the oranges.

There are two processing studies performed in citrus (oranges) with processing to juice, dried citrus pulp, and citrus oil. The studies demonstrated that fenpropathrin did not concentrate in juice (concentration factor all <<1), but did concentrate in dried citrus pulp (average concentration factor = 2.6), and in citrus oil (average concentration factor = 40.5). Thus it can be calculated from the HAR that residues of 3.12 ppm (1.2 x 2.6) could occur in dried citrus pulp and 48.6 ppm (1.2 x 40.5) could occur in citrus oil. Since residues could be present in the not ''ready to eat'' commodities at levels (3.12, 48.6 ppm) appreciably higher than the proposed RAC tolerance of 2 ppm, tolerances are being proposed. After rounding, the proposed tolerances are 4.0 ppm for dried citrus pulp, and 50.0 ppm for citrus oil.

vi. *Melons (Cantaloupe)*. The proposed Section 408 tolerance for fenpropathrin in/on melons (crop group 9A) is 0.5 ppm. The field residue data that support this proposal come from 10 locations in 7 states. At these ten locations there was a total of 14 separate trials, yielding 36 separate, treated samples for analysis. Samples from treatments that were consistent with the proposed maximum use pattern -- 0.2 lb. ai./a, 4 applications, 7-day spray interval, 7-day pre-harvest interval -- gave 20 separate samples for analysis. The mean of the 20 determinations is 0.175 ppm (n = 20, σn-1 = 0.077 ppm) and a maximum value of 0.31 ppm. Separate analyses of pulp and rind demonstrated that the bulk of the residues were present on the rind.

vii. *Head and Stem Brassica*. A proposed Section 408 tolerance of 3.0 ppm is proposed for fenpropathrin in/on Head and stem brassica (crop group 5A) -- cabbage, cauliflower, broccoli, brussels sprouts, and related non-leafy brassica. The field residue data to support a fenpropathrin tolerance on the crop grouping head and stem brassica includes data on broccoli from 7 sitesand cabbage from six sites providing data from 13 sites across the U.S. Samples from trials that were consistent with the proposed maximum use pattern for the crop group -- the first application at 0.2 lb. ai./a and 2 additional applications at 0.3 lb. ai./a (a total application of 0.8 lb. ai./a), 7-day spray interval, 7-day pre-harvest interval -- gave a mean residue of 0.62 ppm(n = 26, σn-1 = 0.69) with a maximum value of 2.8 ppm.

viii. *Broccoli*. Field residue data come from 7 locations in 4 states. At these locations there were a total of 8 separate trials yielding 28 separate, treated samples for analysis. Samples from trials that were consistent with the proposed maximum use pattern gave 14 separate samples for analysis. The mean of the 14 determinations is 0.369 ppm (n = 14, σn-1 = 0.157 ppm)and a maximum value of 0.58 ppm.

ix. *Cabbage*. Field residue data come from 6 locations in 6 states. At these six locations there was a total of 7 separate trials yielding 26 separate, treated samples for analysis. Trials that were consistent with the proposed maximum use pattern gave 12 separate samples for analysis. The mean of the determinations is 0.92 ppm (n = 12, σn-1 = 0.93 ppm) and a maximum value of 2.8 ppm. Analyses of cabbage heads with wrapper leaves removed demonstrated that the bulk of the residue was on the exterior of the cabbages with a mean residue of 0.04 ppm (n = 12, σn-1 = 0.05 ppm) and a maximum value of 0.19 ppm.

x. *Secondary residues*. Residues in animal feed may transfer to animal products, meat, milk, and eggs, used in human food. The existing tolerances on meat and meat by-products of cattle, goats, hogs, horses and sheep at 0.1 ppm, fat of cattle, goats, hogs, horses and sheep at 1.0 ppm, milk fat (reflecting 0.08 ppm in whole milk) at 2.0 ppm, and poultry meat, fat, meat by-products and eggs at 0.05 ppm are, adequate to allow the addition of the proposed uses. Both chronic and acute dietary assessments show very low residue contribution from secondary residues in animal products to all population sub-groups.

B. Toxicological Profile

Summary. The existing registrations and tolerances of fenpropathrin are supported at EPA by a complete toxicology data base. Toxicity endpoints of concern have been identified by the Agency's Health Effects Division, Hazard Identification Assessment Review Committee (Meeting July 17, 1997; Revised Memorandum November 14, 1997). The identified endpoints are an acute dietary of 6.0 mg/kg/day (systemic) and a chronic dietary of 2.5 mg/kg/day (RfD = 0.025 mg/kg/day, UF = 100). No endpoints of concern were identified by the Committee for occupational or residential, dermal or inhalation exposures of any duration. Further, in the Revised Memorandum of November 14, 1997, the Committee concluded that an additional safety factor, beyond 100 was not needed to account for special sensitivity of infants and children to fenpropathrin. In a separate action, fenpropathrin has been evaluated for carcinogenicity by the HED RfD/Peer Review Committee. In a Memorandum from Dr. G. Z. Ghali to Mr. G. La Rocca dated March 18, 1993, it was concluded that in valid studies with adequate doses that the compound ''did not alter the spontaneous tumor

profile in both rats and mice''. Fenpropathrin was classified as Group E.

1. *Acute toxicity*. Oral LD_{50} in the rat is 54.0 milligram/kilogram (mg/kg) for males and 48.5 mg/kg for females - Toxicity Category I; dermal LD_{50} is 1,600 mg/kg for males and 870 mg/kg for females - Category II; acute inhalation (impossible to generate sufficient test article vapor or aerosol to elicit toxicity) - Category IV; primary eye irritation (no corneal involvement, mild iris and conjunctival irritation) - Category III; and primary dermal irritation (no irritation) - Category IV. Fenpropathrin is not a sensitizer.

2. *Genotoxicity*. Studies on gene mutation and other genotoxic effects: An Ames Assay was negative for *Salmonella* TA98, TA100, TA1535, TA1537, and TA1538; and E coli WP2uvrA (trp-) with or without metabolic activation. Sister Chromosome Exchange in CHO-K1 Cells - there were no increases in sister chromatid exchanges seen in the CHO-K1 cells treated with S-33206 or the DMSO vehicle. Cytogenetics *in vitro* (CHO/CA) - negative for chromosome aberrations (CA) in Chinese hamster ovary (CHO) cells exposed *in vitro* to toxic doses (> 30 nanogram) without activation; and to limit of solubility (1,000 nanogram) with activation. *In Vitro* Assay in Mammalian Cells - equivocal results - of no concern. DNA Damage/Repair in Bacillus subtilis - not mutagenic or showing evidence of DNA damage at > 5,000 nanogram/paper disk.

3. *Reproductive and developmental toxicity*. In a developmental toxicity study in rats, pregnant female rats were dosed by gavage on gestation days 6-15 at 0 (corn oil control) 0.4, 1.5, 2.0, 3.0, 6.0, or 10.0 mg/kg/day. The maternal no observed adverse effect level (NOAEL) is 6 mg/kg/day; maternal LEL is 10 mg/kg/day based on death, moribundity, ataxia, sensitivity to external stimuli, spastic jumping, tremors, prostration, convulsions, hunched posture, squinted eyes, chromodacryorrhea, and lacrimation; developmental NOAEL is > 10 mg/kg/day.

In a developmental toxicity study in rabbits, pregnant female New Zealand rabbits were dosed by gavage on gestation days 7 through 19 at 0, 4, 12, or 36 mg/kg/day. Maternal NOEL is 4 mg/kg/day; maternal LEL is 12 mg/kg/day based on grooming, anorexia, flicking of the forepaws; developmental NOEL is > 36 mg/kg/day (HDT).

A 3-generation reproduction study was performed in rats. Rats were dosed with fenpropathrin at concentrations of 0, 40, 120, or 360 ppm (0, 3.0, 8.9, or 26.9 mg/kg/day in males; 0, 3.4, 10.1, or 32.0 mg/kg/day in females, respectively). Parents (male/female): Systemic NOEL = 40 ppm (3.0/3.4 mg/kg/day). Systemic LEL = 120 ppm (8.9/10.1 mg/kg/day) based on body tremors with spasmodic muscle twitches, increased sensitivity and maternal lethality; reproductive NOEL = 120 ppm (8.9/10.1 mg/kg/day). Reproductive LEL = 360 ppm (26.9/32.0 mg/kg/day) based on decrease mean F1B pup weight, increased F2B loss. Pups (male/female): Developmental NOEL = 40 ppm (3.0/3.4 mg/kg/day). Developmental LEL = 120 ppm (8.9/10.1 mg/kg/day) based on body tremors, increased mortality.

4. *Subchronic toxicity*. In a subchronic oral toxicity study, rats were dosed at concentrations of 0, 3, 30, 100, 300, or 600 ppm in the diet. The lowest effect level (LEL) is 600 ppm (30 mg/kg/day) based on body weight (bwt) reduction (female), body tremors, and increased brain (female) and kidney (male) weights. The NOEL is 300 ppm (15 mg/kg/day).

In a subchronic oral toxicity study, dogs were dosed at concentrations of 0, 250, 500, or 1,000 ppm in the diet. A 1,000 ppm dog was sacrificed moribund during the third week after having tremors and showing other signs of poisoning caused by the test article. Because of this death, the dose for this group was reduced to 750 ppm for the remainder of the study. The LOEL is 250 ppm (7.25 mg/kg/day) based on signs of GI tract disturbance. There was no NOEL -- note dog chronic, below)

In a 21-day dermal toxicity study, rabbits were dosed 5-days/week for 3 weeks on abraded or unabraded skin at doses of 0, 500, 1,200, or 3,000 mg/kg/day. There were no dose-related effects on bwt, food consumption, clinical pathology, gross pathology, or organ weights. Trace or mild inflammatory cell infiltration was seen in the intact and abraded skin in all groups, including controls, and was attributed to the test article. The systemic NOEL is > 3,000 mg/kg/day. Local irritation only.

Although a 21-day dermal toxicity study in rabbits is available the Agency has determined that rats are the most sensitive species to ascertain the dermal toxicity potential of pyrethroid insecticides. Although these data are lacking, EPA has sufficient toxicity data to support these tolerances and these additional studies are not expected to significantly change the risk assessment.

5. *Chronic toxicity*. In a 1-year feeding study, dogs were dosed at 0, 100, 250, or 750 ppm in the diet. The systemic LEL is 250 ppm (6.25 mg/kg/day) based on tremors in all dogs. The neurologic NOEL is 100 ppm (2.5 mg/kg/day); the systemic NOEL is 100 ppm (2.5 mg/kg/day).

In a chronic feeding/carcinogenicity study, rats were dosed at 0, 50, 150, 450, or 600 ppm in the diet (0, 1.93, 5.71, 17.06, or 22.80 mg/kg/day in males, and 0, 2.43, 7.23, 19.45, or 23.98 mg/kg/day in females). There was no evidence of carcinogenicity at any dose up to and including 600 ppm. The systemic NOEL (male) is 450 ppm (17.06 mg/kg/day). The systemic NOEL (female) is 150 ppm (7.23 mg/kg/day). Systemic LEL (male) is 600 ppm highest dose tested (HDT) based on increased mortality, body tremors, increased pituitary, kidney, and adrenal weights. The systemic LEL (female) is 450 ppm (19.45 mg/kg/day) based on increased mortality and body tremors.

In a chronic feeding/carcinogenicity study, mice were dosed at 0, 40, 150, or 600 ppm in the feed (0, 3.9, 13.7, or 56.0 mg/kg/day in males, and 0, 4.2, 16.2, or 65.2 mg/kg/day in females). Mortality was highest during the final quarter of the study, but the incidence was similar in all dosed and control groups. No other indications of toxicity or carcinogenicity were seen. The systemic NOEL is ≤ 600 ppm (HDT; male/female, 56.0/65.2 mg/kg/day). text.

6. *Animal metabolism*. In a metabolism study in rats, animals were dosed with radiolabelled fenpropathrin radiolabelled in either the alcohol or acid portion of the molecule. Rats received 14 daily oral low-doses of 2.5 mg/kg/day of unlabelled fenpropathrin followed by a 15th dose of either the alcohol or acid radiolabelled fenpropathrin. Groups of rats received a single dose of either of the 2 radiolabelled test articles at 2.5 mg/kg or 25 mg/kg. No clinical signs were seen in any rats.

The major biotransformations included oxidation at the methyl group of the acid moiety, hydroxylation at the 4'-position of the alcohol moiety, cleavage of the ester linkage, and conjugation with sulfuric acid or glucuronic acid.

Four metabolites were found in the urine of rats dosed with alcohol labeled fenpropathrin. The major metabolites were the sulfate conjugate of 3-(4'-hydroxyphenoxy)benzoic acid and 3-phenoxybenzoic acid (22-44% and 3-9% of the administered dose, respectively). The major urinary metabolites of the acid-labeled fenpropathrin were TMPA-glucuronic acid and TMPA-CH2OH (11-26% and 6-10% of the administered dose, respectively). None of the parent chemical was found in urine.

The major elimination products in the feces included the parent chemical (13-34% of the administered dose) and four

metabolites. The fecal metabolites (and the percentage of administered dose) included CH2OH-fenpropathrin (9 20%), 4'-OH-fenpropathrin (4-11%), COOH-fenpropathrin (2-7%), and 4'-OH-CH2OH-fenpropathrin (2-7%).

There are no qualitatively unique plant metabolites . The primary aglycones are identical in both plants and animals; the only difference is in the nature of the conjugating moieties employed.

The metabolism and potential toxicity of the small amounts of terminal plant metabolites have been tested on mammals. Glucoside conjugates of 3-phenoxy-benzyl alcohol and 3-phenoxybenzoic acid, administered orally to rats, were absorbed as the corresponding aglycones following cleavage of the glycoside linkage in the gut. The free or reconjugated aglycones were rapidly and completely eliminated by normal metabolic pathways. The glucose conjugates of 3-phenoxybenzyl alcohol and 3-phenoxy-benzoic acid are less toxic to mice than the corresponding aglycones.

7. *Endocrine disruption*. No special studies to investigate the potential for estrogenic or other endocrine effects of fenpropathrin have been performed. However, as summarized above, a large and detailed toxicology data base exists for the compound including studies acceptable to the Agency in all required categories. These studies include evaluations of reproduction and reproductive toxicity and detailed pathology and histology of endocrine organs following repeated or long term exposure. These studies are considered capable of revealing endocrine effects and no such effects were observed.

C. Aggregate Exposure

1. *Dietary exposure*. Toxicity endpoints of concern have been identified by the Agency's Health Effects Division, Hazard Identification Assessment Review Committee (July 17, 1997). The identified endpoints are a Chronic Dietary of 2.5 mg/kg/day (RfD = 0.025 mg/kg/day, UF = 100) and an Acute Dietary of 6.0 mg/kg/day (systemic). Thus, both chronic and acute dietary exposure and risk analyses are necessary.

2. *Food*. Chronic and acute dietary exposure analyses were performed for fenpropathrin using anticipated residues and accounting for proportion of the crop treated. The crops included in the analyses are the raw agricultural commodities cottonseed, currants, peanuts, strawberries, tomatoes, pome fruits, citrus, grapes, head and stem brassica, and melons; processed products from these crops; and the resulting secondary residues in meat, milk, and eggs. A report along with a supplemental report of these exposure/risk analyses has been submitted to the Agency including a detailed description of the methodology and assumptions used.

Chronic dietary exposure was calculated for the U.S. population and 26 population subgroups. The results from several representative subgroups are listed below. Chronic dietary exposure was at or below 1.7 % of the reference dose with grapes and apples the commodities contributing the most to chronic exposure. Generally speaking, the Agency has no cause for concern if total residue contribution for published and proposed tolerances is less than 100% of the RfD.

SUMMARY OF CHRONIC DIETARY (FOOD) EXPOSURES TO FENPROPATHRIN RESIDUES

Population Subgroup	Exposure(mg/kg bw/day)	Percent ofRfD
Total U.S. Population (all seasons)	0.000165	0.7
Females (13+/Nursing)	0.000285	1.1
Non-Hispanic other than B/W	0.000246	1.0
Children (1-6 Years)	0.000435	1.7
All Infants (<1 Year Old)	0.000193	0.8
Non-Nursing Infants (<1 Year Old)	0.000127	0.5
Nursing Infants (<1 Year Old)	0.000351	1.4

Acute dietary exposure was calculated for the U.S. population, Females (13+/Pregnant/Not Nursing), and five children subgroups. The subpopulation, Females (13+/Pregnant/Not Nursing), was included because the toxicity endpoint for acute dietary exposure identified by the Agency is based on clinical signs of toxicity in the dams from the rat developmental toxicity study. The calculated exposures and margins of exposure (MOE) for the higher exposed proportions of the subgroups are listed below. In all cases, margins of exposure exceed one-hundred.

CALCULATED ACUTE DIETARY EXPOSURES TO FENPROPATHRIN RESIDUES IN FOOD (PER-CAPITA DAYS)

Population Subgroup	99th Percentile		99.9th Percentile	
	Exposure(mg/kg bw/day)	MOE	Exposure(mg/kg bw/day)	MOE
U.S. Polulation	0.003296	1,821	0.010173	590
Females (13+/Pregnant/NotNursing)	0.002737	2192	0.005595	1072
Children 1-6	0.008461	709	0.020678	290
Children 7-12	0.005322	1,127	0.012195	492
All Infants	0.002963	2,025	0.029691	202
Nursing Infants (<1)	0.007142	840	0.050337	119
Non-Nursing Infants (<1)	0.001874	3,202	0.004863	1,234

It should be noted that the numbers of individuals in the dietary survey of some population subgroups is small. These ''under represented'' subgroups are weighted to account for their proportions in the total U.S. Population and in various geographic and ethnic subpopulations. If in these under represented subgroups there are individuals with unusual dietary consumption patterns anomalous Monti Carlo selected diets will occur at the lower probability exposures (e.g. 99th and 99.9th percentiles) often times leading to unrealistically high calculated exposures. Such is the case for Nursing Infants (<1). Two of these babies were reported to be fed raw grapes. In one case, one nursing infant was reported to consume 310 grams of raw grapes in a single day. This is a very unusual diet for any infant. Because of this dietary anomaly, and the weighting factor for this population subgroup, the

MOE for nursing infants approaches 100.

3. *Drinking water.* Since fenpropathrin is applied outdoors to growing agricultural crops, the potential exists for fenpropathrin or its metabolites to reach ground or surface water that may be used for drinking water. Because of the physical properties of fenpropathrin, the Agency has determined that it is unlikely that fenpropathrin or its metabolites can leach to potable groundwater.

To further quantify potential exposure from drinking water, surface water concentrations for fenpropathrin were estimated using GENEEC 1.2. The average 56-day concentration predicted in the simulated pond water was 0.22 ppb. The residence time of fenpropathrin in surface water has been measured and is short. In pond studies, fenpropathrin half-lives in the water column were less than 1.5 days, thus this 56-day modeled half-life probably considerably overestimates any real surface water concentration. Using standard assumptions about bwt and water consumption, the chronic exposure from this drinking water would be 6.3 x 10-6 and 2.2 x 10 -5 mg/kg bw/day for adults and children, respectively; less than 0.09 % of the RfD for children. Based on this worse case analysis, the contribution of water to the dietary risk is negligible.

4. *Non-dietary exposure.* Fenpropathrin, as the product TAME 2.4 EC Spray, is registered for professional non-food use both indoors and outdoors on ornamentals and non-bearing nursery fruit trees. Fenpropathrin has no animal health, homeowner, turf, termite, indoor pest control, or industrial uses. Quantitative information concerning human exposure from this ornamental use is not available, but exposure to the general public from this use of fenpropathrin is expected to be minimal. It is important to note that no endpoints of concern were identified by the Health Effects Division, Hazard Identification Assessment Review Committee for occupational or residential, dermal or inhalation exposures of any duration. Thus, no risk assessment is needed.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Available information in this context include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way.

There are numerous other pesticidal compounds, pyrethroids and natural pyrethrins, that are structurally related to fenpropathrin and may have similar effects on animals. In consideration of potential cumulative effects of fenpropathrin and other substances that may have a common mechanism of toxicity, there are currently no available data or other reliable information indicating that any toxic effects produced by fenpropathrin would be cumulative with those of other chemical compounds. Thus, only the potential risks of fenpropathrin have been considered in this assessment of aggregate exposure and effects.

Valent will submit information for EPA to consider concerning potential cumulative effects of fenpropathrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

The Food Quality Protection Act of 1996 introduces a new standard of safety, a reasonable certainty of no harm. To make this determination, at this time the Agency should consider only the incremental risk of fenpropathrin in its exposure assessment. Since the potential chronic and acute exposures to fenpropathrin are small (<< 100 % of RfD, MOE ≤ 100) the provisions of the FQPA of 1996 will not be violated.

1. *U.S. population*—i *Chronic exposure.* Using the dietary exposure assessment procedures described above for fenpropathrin, calculated chronic dietary exposure resulting from residue exposure from existing and proposed uses of fenpropathrin is minimal. The estimated chronic dietary exposure from food for the overall U.S. population and many non-child/infant subgroups is 1.1 [Females (13+/Nursing), 0.000285 mg/kg bw/day] to 0.4 % of the RfD. Addition of the small but worse case potential chronic exposure from drinking water (calculated above) increases exposure by only 6.3 x 10-6 mg/kg bw/day, and the maximum occupancy of the RfD from 1.14 % to 1.16 %. Generally, the Agency has no cause for concern if total residue contribution is less than 100 % of the RfD. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. Population and many non-child/infant subgroups from aggregate, chronic exposure to fenpropathrin residues.

ii. *Acute.* The potential acute exposure from food to the U.S. population and various non-child/infant population subgroups (shown above) provide MOE values greatly exceeding 100. Addition of the worse case, but very small ''background'' dietary exposure from water is not sufficient to change the MOE values significantly (see table below). In a conservative policy, the Agency has no cause for concern if total acute exposure calculated for the 99.9th percentile yields a MOE of 100 or larger. It can be concluded that there is a reasonable certainty that no harm will result to the overall U.S. Population and many non-child/infant subgroups from aggregate, acute exposure to fenpropathrin residues.

AGGREGATE U.S.POULATION ACUTE DIETARY EXPOSURE

Source of Exposure	Exposure(mg/kgbw/day)	99.9th Percentile Margin ofExposure
Chronic Water ...	0.000006	-
99.9th Percentile Acute Exposure -- Food ...	0.010173	589.8
99.9th Percentile Aggregate Acute Exposure Food + Water	0.010179	589.4

2. *Infants and children.* Safety Factor for Infants and Children: In assessing the potential for additional sensitivity of infants and children to residues of fenpropathrin, FFDCA section 408 provides that EPA shall apply an additional margin of safety, up to ten-fold, for added protection for infants and children in the case of threshold effects unless EPA determines that a different margin of safety will be safe for infants and children.

The toxicological data base for evaluating pre- and post-natal toxicity for fenpropathrin is complete with respect to current data requirements. There are no special pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies or the 3-generation reproductive toxicity study in rats. EPA HED Hazard

ID Committee (Revised Memorandum, November 14,1997) has concluded that reliable data support use of the standard 100-fold uncertainty factor and that an additional uncertainty factor is not needed for fenpropathrin to be further protective of infants and children.

3. *Chronic risk*. Using the conservative exposure assumptions described above, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of fenpropathrin ranges from 0.5 % for Non-Nursing Infants (<1 year old), up to 1.7 % for Children (1 - 6 years). Addingthe worse case potential incremental exposure to infants and children from fenpropathrin in drinking water (2.2 x 10 -5 mg/kg bw/day) to the chronic dietary exposure from food (0.000435 mg/kg bw/day) does not materially increase the aggregate, chronic dietary exposure and only increases the occupancy of the RfD by 0.09% to 1.8 % for Children (1 - 6 years). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, chronic exposure to fenpropathrin residues.

4. *Acute*. The potential acute exposure from food to the various child and infant population subgroups (shown above) provide MOE values exceeding 100. Addition of the worse case, but very small ''background'' dietary exposure from water (2.2 x 10 -5 mg/kg bw/day) is not sufficient to change the MOE values significantly (see table below). In a conservative policy, the Agency has no cause for concern if total acute exposure calculated for the 99.9th percentile yields a MOE of 100 or larger. It can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate, acute exposure to fenpropathrin residues.

AGGREGATE NURSING INFANTS (> 1 YEAR) ACUTE DIETARY EXPOSURE

Source of Exposure	Exposure (mg/kg bw/day)	99.9th Percentile Margin of Exposure
Chronic Water ...	0.000022	-
99.9th Percentile Acute Exposure - Food	0.050337	119.2
99.9th Percentile Aggregate Acute Exposure Food + Water	0.050359	119.1

F. Safety Determination Summary

Aggregate acute or chronic dietary exposure to various sub-populations of children and adults demonstrate acceptable risk. Aggregate chronic dietary exposures to fenpropathrin occupy considerably less than 100% of the RfD, and all aggregate acute dietary MOE values exceed 100. Chronic and acute dietary risk to children from fenpropathrin should not be of concern. Further, fenpropathrin has no other uses, such as animal health, indoor pest control, homeowner use or turf applications, that could lead to unique, enhanced exposures to vulnerable sub-groups of the population. It can be concluded that there is a reasonable certainty that no harm will result to the U.S. Population or to any sub-group of the U.S. population, including infants and children, from aggregate chronic or aggregate acute exposures to fenpropathrin residues resulting from approved and pending uses.

G. International Tolerances

Codex Maximum Residue Limits

186 -- FENPROPATHRIN

Main uses -- 8 -- INSECTISCIDE/ACARACIDE

JMPR -- 83

ADI -- 0.03 mg/jg body weight (1993)

RESIDUE -- Fenpropathrin (fat soluble)

Commodity					
Code	Name	MRL (mg/kg)	Step	JMPR	CCPR
MM 0812	Cattle meat	0.5 (fat)	6	93	.....
ML 0812	Cattle milk	0.1 F	6	93	.....
MO 0812	Cattle, Edible offal of	0.05	CXL		(1995)
SO 0691	Cotton seed	1	CXL		(1995)
OC 0691	Cotton seed oil, Crude	3	CXL	.....	(1995)
VO 0440	Egg plant	0.2	6	93	.....
PE 0112	Eggs	0.01 (*)	CXL	.....	(1995)
VC 0425	Gherkin	0.2	CXL	D (1995)	
FB 0269	Grapes	5	6	93	.....
VO 0445	Peppers, Sweet	1	CXL	.....	(1995)
FP 0009	Pome fruits	5	CXL	.....	(1995)
PM 0110	Poultry meat	0.02 (fat)	CXL	.....	(1995)
PO 0111	Poultry, Edible offal of	0.01 (*)	CXL	.....	(1995)
V0 0448	Tomato	1	CXL	.....	(1995)

There are small differences between the Section 408 tolerances and the Codex MRL values for secondary residues in animal products. These minor differences are mainly caused by differences in the methods used to calculate animal feed dietary exposure. The only substantial difference between the US tolerance and the Codex MRL value is for tomatoes. The JMPR reviewer required that the MRL exceed the highest field residue value rounded up to unit value. The EPA reviewer agreed with Valent that one set of field residue samples was possibly compromised by the presence of a high rate processing treatment nearby. High outliers were ignored, and the tolerance was set at 0.6 ppm. (Beth Edwards)

[FR Doc. 98–20769 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00499; FRL–5740–1]

Test Guidelines; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS), and is announcing the availability of final test guidelines for the Series 870—Health Effects Test Guidelines. The final guidelines have been harmonized between the Office of Pesticide Programs (OPP) and the Office of Pollution Prevention and Toxics (OPPT) and, to the extent possible, with the Organization for Economic Cooperation and Development (OECD) Guidelines for the Testing of Chemicals. The test guidelines have been reviewed at various Scientific Advisory Panel (SAP) meetings, the most recent of which was held on October 29 and 30, 1996, as announced by notice in the **Federal Register** (61 FR 31522, June 20, 1996) (FRL–5367–7). The guidelines have been revised where appropriate in response to SAP and public comments. This notice also describes the unified library of OPPTS test guidelines.

ADDRESSES: The guidelines are available from the U.S. Government Printing Office (GPO), Washington, DC 20402 on disks or paper copies: call (202) 512–0132. The guidelines are also available electronically in PDF (portable document format) from EPA's World Wide Web site (http://www.epa.gov/epahome/research.htm) under the heading ''Researchers and Scientists/Test Methods and Guidelines/OPPTS Harmonized Test Guidelines.''

FOR FURTHER INFORMATION CONTACT: For general information: By mail:

Toxic Substances Control Act (TSCA) information: Contact the TSCA Hotline at: TAIS/7408, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone number: (202) 554–1404; fax (202) 554–5603; e-mail: TSCA-hotline@epa.gov.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) information: Contact the Communications Services Branch (7506C), Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone number: (703) 305–5017; fax (703) 305–5558.

For technical questions on Series 870 Genetic Toxicity test guidelines: Michael Cimino, (202) 260–3451; e-mail: cimino.michael@epa.gov.

For technical questions on other Series 870 test guidelines: William Sette, (703) 305–6375; e-mail: sette.william@epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Envirnonmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1998/).

I. EPA's Process for Developing a Unified Library of Test Guidelines

EPA's Office of Prevention, Pesticides and Toxic Substances has been engaged in a multi-year project to harmonize and/or update test guidelines among the Office of Pesticide Programs, the Office of Pollution Prevention and Toxics, and the Organization for Economic Cooperation and Development. The goals of the project include the formulation of harmonized OPP and OPPT guidelines for those in common between the two programs, the harmonization of OPPT and/or OPP guidelines with those of the OECD, as well as the updating of any guidelines unique to OPP or OPPT programs.

Test guidelines that are changed substantively from the existing test guidelines in the Pesticide Assessment Guidelines or 40 CFR 158.795 through 158.799 in the harmonization process or through other updating/amending activities, or which are new (e.g., for a previously unaddressed test endpoint) are made available for public comment by notice in the **Federal Register**. Additionally, EPA submits substantively revised and new test guidelines to peer review by the FIFRA SAP and other expert scientific panels. Guidelines which are reformatted but not changed in any substantive way are not made available for public comment or submitted to peer review.

All final guidelines are available through the Internet on the EPA World Wide Web Home Page as a unified library of OPPTS test guidelines for use by either EPA program office. Printed versions of the unified library of OPPTS test guidelines are also available to the public through GPO, see ''ADDRESSES'' at the beginning of this document. For purposes of this **Federal Register** notice, ''publication'' of the unified library of guidelines generally describes the availability of these final guidelines through GPO and the Internet. Because harmonization and updating is an ongoing task, some guidelines available via GPO and the Internet may be revised in the future. These efforts will ensure that industry is provided with test guidelines that are current.

The test guidelines appearing in the unified library are given numerical designations that are different from the designations provided in the Code of Federal Regulations (CFR) at 40 CFR parts 158, 795, 796, 797, 798, and 799. OPPTS test guidelines will be published in 10 disciplinary series as follows:

Series 810—Product Performance Test Guidelines

Series 830—Product Properties Test Guidelines

Series 835—Fate, Transport and Transformation Test Guidelines

Series 840—Spray Drift Test Guidelines

Series 850—Ecological Effects Test Guidelines

Series 860—Residue Chemistry Test Guidelines

Series 870—Health Effects Test Guidelines

Series 875—Occupational and Residential Exposure Test Guidelines

Series 880—Biochemicals Test Guidelines

Series 885—Microbial Pesticide Test Guidelines

The Agency issues **Federal Register** notices periodically announcing any new test guidelines added to the OPPTS unified library. As each set of guidelines is published, it will be accompanied by a ''Master List'' which cross references the new OPPTS guideline numbers to the original OPP, OPPT, and OECD numbers.

II. OPP and OPPT Procedures

For pesticide registration, explicit test requirements are set out in 40 CFR part 158 which refers to specific guidelines by guideline number. Once final revised guidelines are available through GPO and the Internet, the earlier Pesticide Assessment Guidelines that were available through the National Technical Information Service (NTIS) will be removed from distribution. Studies initiated 45 days or more after publication of the notice of availability in the **Federal Register** should be performed in accordance with the revised guidelines; however, registrants should discuss effective dates for long term studies with the EPA Product Manager. As test guidelines are published, the Agency will inform industry and the general public by means of **Federal Register** notices. In addition, Data Call In letters to pesticide registrants will carry a dual numbering system for test guidelines until all test guidelines have been published. Part 158, which is currently being revised, will also carry a dual numbering system

for test guidelines when it is proposed in the **Federal Register**.

In contrast, OPPT had previously published its pre-harmonization test guidelines in 40 CFR parts 795 through 798. Recent TSCA test guidelines, based on harmonized test guidelines, have been published in part 799. TSCA test guidelines are referenced in test standards promulgated in chemical-specific test rules in part 799. To the extent that a person is subject to a test rule which references a pre-harmonization guideline published in 40 CFR parts 795 through 798, the test rule still requires compliance with the pre-harmonization test guideline that was referenced by the rule. However, if the person subject to the test rule is interested in seeking a modification to the requirement to comply with the test standard promulgated in the test rule, EPA encourages that person to consult the modification procedures outlined in 40 CFR part 790. EPA has removed and will continue to remove from the CFR those pre-harmonization guidelines that are no longer referenced in an applicable test rule.

III. Peer Review of Series 870 Health Effects Test Guidelines

The Agency has updated and harmonized test guidelines for health effects (870 Series) and submitted the revisions to peer review by the FIFRA SAP on October 29 and 30, 1996. EPA also made these revised guidelines available to the public for comment through the OPP docket and on the Internet through the EPA Home Page. Guidelines in this series have been revised in response to peer review and public comment. In addition, the series includes four new guidelines: Neurophysiology, Sensory Evoked Potentials (OPPTS 870.6855); Domestic Animal Safety (OPPTS 870.7200); Dermal Penetration (OPPTS 870.7600); and Immunotoxicity (OPPTS 870.7800). Two guidelines have been deleted: Preliminary Developmental Toxicity Screen (OPPTS 870.3500) and Inhalation Developmental Toxicity Study (OPPTS 870.3600). One guideline has been removed from the harmonized category: Acute Inhalation with Histopathology (OPPTS 870.1350). Three guidelines have been totally revised and updated: Prenatal Developmental Toxicity (OPPTS 870.3700); Reproduction and Fertility Effects (OPPTS 870.3800); and Metabolism and Pharmacokinetics (OPPTS 870.7485). The sub-chronic guidelines for all routes of exposure have been updated to match the new OECD Guidelines 408 and 409. Under genetic toxicology testing, two guidelines addressing reverse mutation have been combined into one guideline: Bacterial Reverse Mutation Test (OPPTS 870.5100). Six guidelines have been harmonized with the most recent OECD updated tests. One new guideline has been added: Mammalian Spermatogonial Chromosome Aberration Test (OPPTS 870.5380). One OPPT guideline (40 CFR 798.5955 Heritable Translocation Test in Drosophila melanogaster) was not updated due to lack of use. The remaining twelve mutagenicity guidelines were not changed substantively, but were reformatted for consistency with other harmonized 870 Series guidelines. A detailed description of the response to comments and the changes to guidelines are available under docket control number OPP-00499 in the Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA; telephone: (703) 305–5805, or by mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

IV. Request for Comment on Potential Voluntary Consensus Standards to Consider for Future Regulatory Actions

This notice of availability does not involve a proposed regulatory action that would require the Agency to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards when the NTTAA directs the Agency to do so.

As indicated earlier, these guidelines represent an Agency effort to harmonize the test guidelines between OPP and OPPT, as well as harmonizing the OPP and OPPT test guidelines with those of the OECD. The process for developing and amending these test guidelines includes the extensive involvement of the scientific community, including peer review by the FIFRA SAP and other expert scientific panels, and providing extensive public comment.

In the future, these test guidelines could be incorporated into regulatory actions taken by EPA pursuant to TSCA section 4. Although the NTTAA requirements do not specifically apply to the issuance of these particular test guidelines today, EPA invites your comment on whether or not there are any voluntary consensus standards that should be considered during the development of any future action under TSCA. Future actions under TSCA section 4 would go through notice and comment rulemaking or be negotiated as voluntary testing enforcement agreements/consent orders/decrees, allowing for additional public comment on this issue. Nevertheless, the Agency is interested in whether or not there are any voluntary consensus standards that EPA should considered in leu of these test guidelines when the Agency develops any future regulatory action that incorporates these test guidelines. Any comments provided will assist the Agency in complying with the NTTAA by facilitating the Agency's identification of voluntary consensus standards that should be considered during the development of a proposed regulatory action that incorporates any standards included in these test guidelines. Please submit your comments to the technical person for TSCA that is identified in the ''FOR FURTHER INFORMATION CONTACT'' section at the beginning of this document.

V. Notice of Availability of Final Test Guidelines

This notice announces the availability of final versions of all test guidelines in the 870 Health Effects Series. The following is the list of test guidelines being made available at this time.

Series 870—Health Effects Test Guidelines

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OPPT	OPP	OECD	712–C–
	Group A—Acute Toxicity Test Guidelines.				
870.1000	Acute toxicity testing–background	none	none	none	98–189
870.1100	Acute oral toxicity	798.1175	81–1	401	98–190
870.1200	Acute dermal toxicity	798.1100	81–2	402	98–192
870.1300	Acute inhalation toxicity	798.1150	81–3	403	98–193
870.2400	Acute eye irritation	798.4500	81–4	405	98–195
870.2500	Acute dermal irritation	798.4470	81–5	404	98–196
870.2600	Skin sensitization	798.4100	81–6	406	98–197
	Group B—Subchronic Toxicity Test Guidelines.				
870.3100	90-Day oral toxicity in rodents	798.2650	82–1	408	98–199
870.3150	90-Day oral toxicity in nonrodents	none	82–1	409	98–200
870.3200	21/28-Day dermal toxicity	none	82—2	410	98–201
870.3250	90-Day dermal toxicity	798.2250	82–3	411	98–202
870.3465	90-Day inhalation toxicity	798.2450	82–4	413	98–204
870.3700	Prenatal developmental toxicity study	798.4900	83–3	414	98–207
870.3800	Reproduction and fertility effects	798.4700	83–4	416	98–208
	Group C—Chronic Toxicity Test Guidelines.				
870.4100	Chronic toxicity	798.3260	83–1	452	98–210
870.4200	Carcinogenicity	798.3300	83–2	451	98–211
870.4300	Combined chronic toxicity/carcinogenicity	798.3320	83–5	453	98–212
	Group D—Genetic Toxicity Test Guidelines.				
870.5100	Bacterial reverse mutation test	798.5100, .5265	84–2	471, 472	98–247
870.5140	Gene mutation in *Aspergillus nidulans*	798.5140	84–2	none	98–215
870.5195	Mouse biochemical specific locus test	798.5195	84–2	none	98–216
870.5200	Mouse visible specific locus test	798.5200	84–2	none	98–217
870.5250	Gene mutation in *Neurospora crassa*	798.5250	84–2	none	98–218
870.5275	Sex-linked recessive lethal test in *Drosophila melanogaster*	798.5275	84–2	477	98–220
870.5300	In vitro mammalian cell gene mutation test	798.5300	84–2	476	98–221
870.5375	In vitro mammalian chromosome aberration test	798.5375	84–2	473	98–223
870.5380	Mammalian spermatogonial chromosomal aberration test	798.5380	84–2	483	98–224
870.5385	Mammalian bone marrow chromosomal aberration test	798.5385	84–2	475	98–225
870.5395	Mammalian erythrocyte micronucleus test	798.5395	84–2	474	98–226
870.5450	Rodent dominant lethal assay	798.5450	84–2	478	98–227
870.5460	Rodent heritable translocation assays	798.5460	84–2	none	98–228
870.5500	Bacterial DNA damage or repair tests	798.5500	84–2	none	98–229
870.5550	Unscheduled DNA synthesis in mammalian cells in culture	798.5550	84–2	482	98–230
870.5575	Mitotic gene conversion in *Saccharomyces cerevisiae*	798.5575	84–2	481	98–232
870.5900	In vitro sister chromatid exchange assay	798.5900	84–2	479	98–234
870.5915	In vivo sister chromatid exchange assay	798.5915	84–2	none	98–235
	Group E—Neurotoxicity Test Guidelines.				
870.6100	Acute and 28-day delayed neurotoxicity of organophosphorus substances	798.6450, .6540, .6560	81–7, 82–5, 82–6	418, 419	98–237
870.6200	Neurotoxicity screening battery	798.6050, .6200, .6400	81–8, 82–7, 83–1	424	98–238
870.6300	Developmental neurotoxicity study	none	83–6	none	98–239
870.6500	Schedule-controlled operant behavior	798.6500	85–5	none	98–240
870.6850	Peripheral nerve function	798.6850	85–6	none	98–241
870.6855	Neurophysiology: Sensory evoked potentials	798.6855	none	none	98–242
	Group F—Special Studies Test Guidelines.				
870.7200	Companion animal safety	none	none	none	98–349
870.7485	Metabolism and pharmacokinetics	798.7485	85–1	417	95–244
870.7600	Dermal penetration	none	85–3	none	98–350
870.7800	Immunotoxicity	none	85–7	none	98–351

List of Subjects

Environmental protection, Test guidelines.

Dated: July 29, 1998.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–20898 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6135–9]

Notice of Proposed NPDES General Permit for Discharges From Petroleum Bulk Stations and Terminals in Texas (TXG340000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft NPDES general permit.

SUMMARY: EPA Region 6 is proposing to issue a general NPDES permit authorizing discharges of facility waste water and contact storm water from petroleum bulk stations and terminals in Texas. This permit covers facilities having Standard Industrial Classification (SIC) Code 5171.

As proposed, the permit has limits on Total Petroleum Hydrocarbons, benzene, Total BTEX (sum of benzene, toluene, ethyl benzene and xylene), Total Lead and pH. There is also a requirement of no acute toxicity as determined by requiring greater than 50% survival in 100% effluent using a 24 hour acute test. In addition, the permit has limits on arsenic, barium, cadmium, chromium, copper, manganese, mercury, nickel, selenium, silver and zinc as contained in Texas Natural Resource Conservation Commission (TNRCC) Regulations for Hazardous Metals (30 TAC 319, Subchapter B), as well as requirements for no discharge of floating solids or visible foam in other than trace amounts, and no discharge of visible oil. There is also the requirement to develop and implement a pollution prevention plan for the storm water discharges authorized by this permit.

DATES: Comments on this proposed permit must be submitted by October 5, 1998.

ADDRESSES: Comments on this proposed permit should be sent to the Regional Administrator, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Wilma Turner, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7516. Copies of the complete fact sheet and proposed permit may be obtained from Ms. Turner. The fact sheet and proposed permit can also be found on the Internet at http://www.epa.gov/earth1r6/6wq/6wq.htm. In addition, the current administrative record on the proposal is available for examination at the Region's Dallas offices during normal working hours after providing Ms. Turner 24 hours advanced notice.

SUPPLEMENTARY INFORMATION: Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Operators of petroleum bulk stations and terminals.

This 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, company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in Part I, Section A.1 of this permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Section 301(a) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311(a), makes it unlawful to discharge pollutants to waters of the United States in the absence of authorizing permits. CWA section 402, 33 U.S.C. 1342, authorizes EPA to issue National Discharge Elimination System (NPDES) permits allowing discharges on condition they will meet certain requirements, including CWA sections 301, 304, and 401 (33 U.S.C. 1331, 1314 and 1341). Those statutory provisions require that NPDES permits include effluent limitations requiring that authorized discharges: (1) Meet standards reflecting levels of technological capability, (2) comply with EPA-approved state water quality standards and (3) comply with other state requirements adopted under authority retained by states under CWA 510, 33 U.S.C. 1370.

Two types of technology-based effluent limitations must be included in the permit proposed here. With regard to conventional pollutants, i.e., pH, BOD, oil and grease, TSS and fecal coliform, CWA section 301(b)(1)(E) requires effluent limitations based on ''best conventional pollution control technology'' (BCT). With regard to nonconventional and toxic pollutants, CWA section 301(b)(2)(A), (C), and (D) require effluent limitations based on ''best available pollution control technology economically achievable'' (BAT), a standard which generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges prior to March 31, 1989 under CWA 301(b)(1)(A).

National guidelines establishing BPT, BCT and BAT standards have not been promulgated for discharges from petroleum bulk stations and terminals. The BCT and BAT requirements for these discharges have, therefore, been established using best professional judgement, as required by CWA section 402(a)(1). All of the limitations in this proposed permit, except for the requirement to develop and implement a storm water pollution prevention plan, are also current requirements in TNRCC Regulations 30 TAC 321, Subchapter M, for discharges from petroleum bulk stations and terminals. The storm water pollution prevention plan requirements are those currently required by the NPDES Storm Water Multi-Sector General Permit for storm water discharges associated with petroleum bulk stations and terminals. All of the discharges authorized by this permit are also those authorized by 30 TAC 321, Subchapter M.

In addition to requiring the development and implementation of a storm water pollution prevention plan, the following limits are proposed:

	Daily maximum (mg/l)	Monitoring frequency
Total petroleum hydrocarbons	15	1/week (3).
Benzene	0.05	1/week (3).
Total BTEX (1)	0.5	1/week (3).

	Daily maximum (mg/l)	Monitoring frequency
Total Lead (2)	0.25	1/week (3).
pH 6.0—9.0 Std. Units		1/week (3).

If discharge occurs less frequently than the minimum monitoring frequency, monitoring shall be conducted for each discharge event. For a discharge consisting of contact storm water only, the sample shall be obtained within 60 minutes after discharge begins.

(1) The sum of benzene, toluene, ethyl benzene and xylene.

(2) The monitoring requirements for lead will be once per year upon the permittee's submission of a certification that none of the substances stored at the facility include refined petroleum products or petroleum fuels containing lead or lead additives. If at a later date, refined petroleum products or petroleum fuels containing lead or lead additives are stored, the permittee must notify the regulatory agency and the lead monitoring frequency will become once per week.

(3) If compliance with a limit is demonstrated for a period of two years, the minimum frequency shall be reduced to once per two weeks upon the permittee's submission of a certification of such compliance. If a subsequent non compliance occurs, the frequency shall revert to once per week.

	Monthly average	Daily max	Single grab
Arsenic	.1 mg/l	.2 mg/l	.3 mg/l.
Barium	1.0 mg/l	2.0 mg/l	4.0 mg/l.
Cadmium (Inland Waters)	.05 mg/l	.1 mg/l	.2 mg/l.
Cadmium (Tidal Waters)	.1 mg/l	.2 mg/l	.3 mg/l.
Chromium	.5 mg/l	1.0 mg/l	5.0 mg/l.
Copper	.5 mg/l	1.0 mg/l	2.0 mg/l.
Manganese	1.0 mg/l	2.0 mg/l	3.0 mg/l.
Mercury	.005 mg/l	.005 mg/l	.01 mg/l.
Nickel	1.0 mg/l	2.0 mg/l	3.0 mg/l.
Selenium (Inland Waters)	.05 mg/l	.1 mg/l	.2 mg/l.
Selenium (Tidal Waters)	.1 mg/l	.2 mg/l	.3 mg/l.
Silver	.05 mg/l	.1 mg/l	.2 mg/l.
Zinc	1.0 mg/l	2.0 mg/l	6.0 mg/l.

The minimum monitoring requirement for these metals is once per year.

There shall be No Acute Toxicity as determined by requiring greater than 50 % survival in 100% effluent using a 24 hour acute test. Monitoring shall be a minimum of once per 6 months using grab samples.

Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions that ensure compliance with applicable state water quality standards or limitations. The proposed permit contains limitations intended to ensure compliance with state water quality standards and has been determined by EPA Region 6 to be consistent with the Texas water quality standards and the corresponding implementation plan. The Region has solicited certification from the Texas Natural Resources Conservation Commission.

B. Endangered Species Act

The proposed limits are sufficiently stringent to assure state water quality standards, both for aquatic life protection and human health protection, will be met. The effluent limitations established in this permit ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that adoption of the proposed permit is unlikely to adversely affect any threatened or endangered species or its critical habitat. EPA is seeking written concurrence from the United States Fish and Wildlife Service on this determination.

C. Historic Preservation Act

Facilities which adversely affect properties listed or eligible for listing in the National Register of Historical Places are not authorized to discharge under this permit.

D. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12866.

E. Paperwork Reduction Act

The information collection required by this permit has been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

F. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), P.L. 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (*See*, e.g., UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations

incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to section 658 of Title 2 of the U.S. Code, which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law * * *.''

NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA thinks it is unlikely that this proposed permit issuance would contain a Federal requirement that might result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed permit issuance would not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (*See* UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The proposed permit issuance also would not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the permit.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*, requires that EPA prepare a regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. Compliance with the permit requirements will not result in a significant impact on dischargers, including small businesses, covered by these permits. EPA Region 6 therefore concludes that the permits proposed today will not have a significant impact on a substantial number of small entities.

Dated: July 29, 1998.

William B. Hathaway,

Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 98–20901 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

July 29, 1998.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments October 5, 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 Les Smith, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

OMB Approval Number: 3060–0062

Title: Application for Authorization to Construct New or Make Changes In an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Station(s)

Form Number: FCC 330

Type of Review: Revision of currently approved collection

Respondents: Not-for-profit institutions, state, local or tribal government

Number of Respondents: 500

Estimated Time Per Response: 10 hours (1 hour/respondent; 6 hours/contract engineer; 3 hours/contract attorney)

Total Annual Burden: 500 hours

Frequency of Response: On occasion reporting requirements.

Estimated Cost to Respondents: $675,000

Needs and Uses: FCC Form 330 is used to apply for authority to construct a new or make changes in an Instructional Television Fixed or response station and low power relay station, or for consent to license assignment or transfer of control.

The Commission has revised the FCC Form 330 to facilitate electronic application processing by replacing narrative exhibits with a series of ''yes/no'' questions.

The data are used by FCC staff to determine if the applicant meets basic statutory requirements and is qualified to become a licensee of the Commission.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–20874 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

July 29, 1998

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction

Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments October 5, 1998.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0661.

Title: Section 21.931, Partitioning of BTAs.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 10.

Estimated Time Per Response: 7 hours (1 hour/respondent; 4 hours/contract attorney; 2 hours/contract engineer).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 10 hours.

Cost to Respondents: $11,000.

Needs and Uses: Section 21.931 permits a Basic Trading Area (BTA) to enter into contracts with eligible parties to partition any contiguous portion of its service area. Under Section 21.931 (a)(2), applicants are required to submit partitioning contracts with the Commission within 30 days of the date the contracts are reached. These contracts will be submitted with one of the following: (1) an MDS long-form application; (2) an application for assignment or transfer; or (3) a statement of intention. These collections have separate OMB control numbers. These partitioning contracts will facilitate the development of successful wireless cable systems in rural areas and will make the most efficient use of the available spectrum. The contracts designate the specific geopolitical boundaries used to partition the BTA. The Commission will apply the same MDS technical rules to partitioned service areas.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–20875 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2286]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

July 28, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed August 20, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject:

Amendment of Part 90 of the Commission's Rules To Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service (PR Docket No. 89–552, RM–8506).

Implementation of Section 3(n) and 332 of the Communications Act (GN Docket No. 93–252).

Regulatory Treatment of Mobile Services.

Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 220–222 MHz (PP Docket No. 93–253).

Number of Petitions File: 3.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–20873 Filed 8–4–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

American Canadian Caribbean Line, Inc. and M.P. Leasing Corporation, 461 Water Street, Warren, RI 02885

Vessel: Grande Mariner.

Corporation Ferries del Caribe, Inc., International Shipping Partners, Inc. and St. Thomas Cruises Limited, Calle Concordia, # 249, Altos Mayaguez, Puerto Rico 00680

Vessel: Regal Voyager.

Cunard Line Limited and Cunard White Star Ltd., 6100 Blue Lagoon Drive, # 400, Miami, FL 33126

Vessel: QUEEN ELIZABETH 2, ROYAL VIKING SUN, SEA GODDNESS I, SEA GODDESS II and VISTAFJORD

Disney Cruise Vacations, Inc., Magical Cruise Company, Limited (d/b/a Disney Cruise Line) and DCL Management Ltd., 20 Celebration Place, Suite 400, Celebration, FL 34747–4600

Vessel: Disney Magic.

Ivaran Lines Limited and Ivarans Rederi ASA, Newport Financial Center, 111 Pavonia Avenue, Jersey City, NJ 07310–1755

Vessel: Americana.

New Commodore Cruise Lines Limited, Capri Cruises, Isle of Capri Casino Corporation, Commodore Cruises Limited, Cruise Charter, Ltd., Silvercone Holdings Limited and Norsong Shipping, Ltd., 4000 Hollywood Blvd., # 385, Hollywood, FL 33021

Vessel: Enchanted Capri.

Princess Cruises, Inc., Princess Cruise Lines, Inc. and The Peninsular and Oriental Steam Navigation Company, 10100 Santa Monica Blvd., # 1800, Los Angeles, CA 90067

Vessel: Crown Princess and Regal Princess.

Princess Cruises, Inc., Princess Cruise Lines, Inc., The Peninsular and Oriental Steam Navigation Company and COROT Shipping Corporation (Sociedade Unipessoal) Lda., 10100

Santa Monica Blvd., # 1800, Los angelss, CA 90057
Vessel: Sun Pricess.

Special Expeditions, Inc., Wilderness Cruises, Inc., SPEX Sea Bird Ltd. and Majestic Alaska Boat Company, 720 Fifth Avenue, New York, NY 10019
Vessel: Sea Bird.

State of Alaska c/o Alaska Marine Highway System, P.O. Box 25535, Juneau, AK 99802–5535
Vessel: Kennicott.

Dated: July 30, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–20842 Filed 8–4–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Corporacion Ferries del Caribe, Inc., d/b/a Ferries del Caribe), Calle Concorida, #249 Altos Mayaguez, Puerto Rico 00680
Vessel: Regal Voyager

Cunard Line Limited and Cunard White Star Ltd., 6100 Blue Lagoon Drive, #400, Miami, FL 33126
Vessels: Queen Elizabeth 2, Royal Viking Sun, Sea Goddess I, Sea Goddess II and Vistafjord

Disney Cruise Vacations, Inc. and Magical Cruise Company Limited, 210 Celebration Place, Suite 400, Celebration, FL 34747–4600
Vessel: Disney Magic

Ivaran Lines Limited, Newport Financial Center, 111 Pavonia Avenue, Jersey City, NJ 07310–1755
Vessel: Americana

New Commodore Cruise Lines Limited, 4000 Hollywood Blvd., #385, South Hollywood, FL 33130–3097
Vessel: Enchanted Capri

Radisson Seven Seas Cruises, Inc., 600 Corporate Drive, Suite 410, Fort Lauderdale, FL 33334
Vessel: Blue Seas

Radisson Seven Seas Cruises, Inc. and Services et Transports Tahiti, 600 Corporate Drive, Suite #410, Fort Lauderdale, FL 33334
Vessel: Paul Gauguin

Royal Caribbean Cruises Ltd., 1050 Caribbean Way, Miami, FL 33132–2096
Vessel: Project Eagle I

Society Expeditions, Inc., Society Expenditions GmbH and Discoverer Reederei Gmbh, 2001 Western Avenue, Suite 300, Seattle, WA 98121
Vessel: World Discoverer

State of Alaska, c/o Alaska Marine Highway System, P.O. Box 25535, Juneau, AK 99802–5535
Vessel: Kennicott

Dated: July 30, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–20843 Filed 8–4–98; 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 freight 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, D.C. 20573.

D.J. Powers International, Inc., 4777 Aviation Parkway, Suite O, College Park, GA 30349, Officers: Richard E. Carter, President, William C. Conaway, Exec. Vice President

Ronald P. Sedotal, 1356 Camp Street, New Orleans, LA 70130, Sole Proprietor

Rockets Cargo, Incorporated, 9805 N, Bissonnett Street, Houston, TX 77036, Officers: Syed I. Ali, President, Ahmed Amine Jelloul, Vice President

SurfAir, Inc. d/b/a SurfLines, 485 Oak Place, Suite 385, College Park, GA 30349, Officers: Douglas A. Fisher, President, Allen S. Hardin, Director

Express Lanes International, Inc., 5701 Boulevard East, Suite #16–I, W. New York, NY 07093, Officers: Olga Donado, President, Jose Aviles, Secretary

Dated: July 30, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–20841 Filed 8–4–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Information Collection Activities, Comment Request

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Notice.

SUMMARY: This notice announces that the major information collection form for FMCS mediation services, FMCS–F–7 form, ''Notice to Mediation Agencies,'' OMB No. 3076–0004, which expires on November 30, 1998, is coming up for renewal. Before submitting this renewal package to the Office of Management and Budget (OMB), FMCS is soliciting comments on specific aspects of the collection as described below, mainly its request for a three-year extension of this currently approved form with no revisions.

COMMENTS: Comments must be submitted on or before September 29, 1998.

ADDRESSES: Submit written comments identified by the FMCS F–7 by mail to: Office of Administration, 2100 K Street, NW, Washington, DC 20427, Room 105, ATTN: Mary Prothro. Copies of the complete F–7 form may be obtained from the Office of Administration at the above address or by contacting the person whose name appears under the section headed **FOR FURTHER INFORMATION CONTACT.**

Comments and data may also be submitted by fax at (202) 606–4254 or electronically by sending electronic mail (E-mail) to ceburton.fmcs.gov. All comments and data in electronic form must have the F–7 number on them. No confidential business information (CBI) should be submitted through E-mail.

All written comments will be available for inspection in Room 105 at the Washington, DC address above from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Chuck Burton, FMCS, 2100 K Street, NW, Washington, DC 20427. Telephone: (202) 606–8111; fax (202) 606–4254; E-mail: ceburton.fmcs.gov.

SUPPLEMENTARY INFORMATION: Copies of the F–7 form are available from the Office of Administration, by calling, faxing, or writing Mary Prothro, Office Manager at the above address. Please ask for the form by its number and title.

I. Information Collection Request

FMCS is seeking comments on the following information collection request:

Title: Notice of Mediation Agencies. FMCS Form F–7. OMB No. 3076–0004, Expiration date: November 30, 1998.

Affected Entities: Parties affected by this information collection are private sector employers and labor unions involved in interstate commerce who file notices for mediation services to the FMCS and state, local, and territorial agencies, who receive copies of these notices filed.

Abstract: Under the National Labor Management Relations Act, 1947, 29 U.S.C. § 158(d)(3), Congress listed specific notice provisions creating a duty to bargain collectively so that no party to a collective bargaining agreement could terminate or modify that contract, unless the party wishing to terminate or modify the contract sent a written notice to the other party, sixty days prior to the expiration date (Section 8(d)(1), and offered to meet and confer with the other party for the purpose of negotiating a new or modified contract (Section 8(d)(2). Furthermore, the Act requires that the party notify the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute and simultaneously notify any State or territorial agency established to mediate and conciliate disputes with the State or Territory where the dispute occurred (Section 8(d)(3)). The 1974 amendments to the NLRA, which extended coverage to nonprofit health care institutions, also created a notification procedure in the health care industry requiring the parties to notify each other 90 days in advance of termination and 60 days to the mediation service. This amendment also required notification of initial bargaining situations (notification of the existence of a dispute) to the FMCS, within 30 days.

To facilitate handling of more than 85,000 such notices a year, FMCS has created a specific information collection form. The purpose of this information collection activity is for FMCS Notice Processing Unit (NPU) to comply with FMCS's statutory duty to receive these notices, to facilitate assignment of mediators to assist in labor disputes, and to assist the parties in knowing whether or not proper notice was given. The information from these notices is sent to the five regional offices and field offices to inform mediators so they may contact labor and management quickly, efficiently, and offer their dispute resolution services, where applicable.

Either party to the contract may make a request in writing for a copy of the notice filed with FMCS. These notices are critical to the function of FMCS and fulfill a statutory purpose as well.

The F–7 form was created to establish conformity throughout interstate commerce and to allow FMCS to gather desired information in a uniform manner. The collection of such information, including the name of employer or employer association, address and phone number, official contact, bargaining unit and establishment size, location of affected establishment and negotiations, industry or type of business, principal product or service, union address, phone number, and official contact, contract expiration date or renewal date, whether the notice is filed on behalf of the union or employer, and whether this is a health care industry notice for initial contracts or existing contracts, is critical for reporting and mediation purposes.

Burden Statement: The current annual respondent burden estimate is approximately 60,000 respondents. This one-page form takes about 10 minutes to complete, for a total of 30,000 annual hours. Each respondent is required to respond only once per event (i.e., 30-day notice for mediation). The frequency is once per collective bargaining contract.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Public Docket

A record has been established for this action. A public version of this record, including printed, paper versions of electronic comments, is available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 105, Office of Administration, Washington, DC 20427, and is maintained by the Office Manager, Mary Prothro. FMCS will transfer all electronically received comments into printed paper form as they are received.

List of Subjects

Mediation, Information collection requests, Notices.

Dated: July 28, 1998.

Vella Traynham,

Deputy Director.

[FR Doc. 98–20847 Filed 8–4–98; 8:45 am]

BILLING CODE 6372–04–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 19, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Leo A. Altier, Louis A. Altier, Paul W. Altier, all of Corning, Ohio; William H. Altier, Zanesville, Ohio; John F. Altier, Crooksville, Ohio; Christine M. Altier, Columbus, Ohio; Mary Ann Flowers, Lancaster, Ohio; Pamela R. Compston, New Lexington, Ohio; Donald M. Altier, Somerset, Ohio; and Angela Hopkins, Cedar Hill, Texas; all to acquire voting shares of The Bank of Corning Company, Corning, Ohio.

Board of Governors of the Federal Reserve System, July 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–20810 Filed 8–4–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 28, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Sandy Spring Bancorp, Inc., Olney, Maryland; to acquire 8 percent of the voting shares of Community Bankshares of Maryland, Inc., Bowie, Maryland, and thereby indirectly acquire Community Bank of Maryland, Bowie, Maryland.

Board of Governors of the Federal Reserve System, July 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–20811 Filed 8–4–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 1, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Premier Bancshares, Inc., Atlanta, Georgia; to acquire 100 percent of the voting shares of Frederica Bank & Trust, St. Simon, Georgia.

Board of Governors of the Federal Reserve System, July 31, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–20929 Filed 8–4–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. United Bankshares, Inc., Charleston, West Virginia; to acquire Fed One Bank, Wheeling, West Virginia, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments regarding this application must be received not later than August 28, 1998.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Banque Nationale de Paris, Paris, France; to acquire FHL Lease Holding Company, Honolulu, Hawaii, and thereby engage in personal property leasing, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, July 30, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–20812 Filed 8–4–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Assessment of Workers' Postural Stability and Cardiovascular Reactivity While Working in a Restricted and Elevated Space.

Time and date: 10 a.m.–3 p.m., September 16, 1998.

Location: NIOSH, CDC, Room 1046, 1095 Willowdale Road, Morgantown, West Virginia 26505.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: Participants will provide NIOSH with their individual advice and comments regarding the technical and scientific aspects of the study protocol, Assessment of Workers' Postural Stability and Cardiovascular Reactivity While Working in a Restricted and Elevated Space, being conducted at NIOSH. Participants on the peer review panel will review the study protocol and provide individual advice on the conduct of the study. Viewpoints and suggestions from industry, labor, academia, other governmental agencies, and the public are invited.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Brian Dotson, M.S., NIOSH, CDC, M/S P119, 1095 Willowdale Road, Morgantown, West Virginia 26505, telephone 304/285–6142.

Dated: July 28, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–20857 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0635]

General Electric Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Electric Co. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6 tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polypropylene intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4615) has been filed by General Electric Co., One Lexan Lane, Mt. Vernon, IN 47620–9364. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, which may contain up to 1 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polypropylene complying with § 177.1520(c), items 1.1, 1.2, or 1.3, intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 24, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–20824 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing changes to its Orphan Products Development (OPD) grant program for fiscal year (FY) 1999. The previous announcement of this program, which was published in the **Federal Register** of July 9, 1997, is superseded by this announcement. In the future, a new announcement will be published annually.

DATES: The application receipt date is November 2, 1998.

ADDRESSES: Application forms are available from, and completed applications should be submitted to: Robert L. Robins, Grants Management Officer, Division of Contracts and Procurement Management (HFA–522), Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7185. (Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20852.)

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Robert L. Robins (address above).

Regarding the programmatic aspects of this notice: Ronda A. Balham, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, rm. 8–73, Rockville, MD 20857, 301–827–3668.

SUPPLEMENTARY INFORMATION: FDA is announcing the anticipated availability of funds for FY 1999 for awarding grants to support clinical trials on the safety and effectiveness of products for a rare disease or condition (i.e., one with a prevalence, not incidence, of fewer than 200,000 people in the United States). Contingent on availability of FY 1999 funds, it is anticipated that $11.3 million will be available, of which 8.8 million will be for noncompeting continuation awards. This will leave $2.5 million for funding approximately 10 new applications. Any phase clinical trial is eligible for up to $100,000 in direct costs per annum plus applicable indirect costs for up to 3 years. Phase 2 and phase 3 clinical trials are eligible for up to $200,000 in direct costs per annum plus applicable indirect costs for up to 3 years.

FDA will support the clinical studies covered by this notice under section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) strongly encourages all grant recipients to provide a smoke-free work place and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

PHS urges applicants to submit work plans that address specific objectives of ''Healthy People 2000.'' Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, stock No. 017–001–00474–0) through the Superintendent of Documents, Government Printing Office,

Washington, DC 20402–9325, 202–512–1800.

PHS policy is that applicants for PHS clinical research grants are required to include minorities and women in study populations so that research findings can be of benefit to all persons at risk of the disease, disorder, or condition under study; special emphasis must be placed on the need for inclusion of minorities and women in studies of diseases, disorders, and conditions which disproportionately affect them. This policy is intended to apply to males and females of all ages. If women or minorities are excluded or inadequately represented in clinical research, particularly in proposed population-based studies, a clear compelling rationale must be provided.

I. Program Research Goals

OPD was established to identify and facilitate the availability of orphan products. In the OPD grant program, orphan products are defined as drugs, biologics, medical devices, and foods for medical purposes that are indicated for a rare disease or condition (i.e., one with a prevalence, not incidence, of fewer than 200,000 people in the United States). Diagnostic tests and vaccines will qualify only if the U.S. population of intended use is lower than 200,000 per annum.

One way to make orphan products available is to support clinical research to determine whether the products are safe and effective. All funded studies are subject to the requirements of the Federal Food, Drug, and Cosmetic Act (the act) and regulations issued thereunder. The grants are funded under the legislative authority of section 301 of the PHS Act (42 U.S.C 241).

The goal of FDA's OPD grant program is the clinical development of products for use in rare diseases or conditions where no current therapy exists or where current therapy would be improved. FDA provides grants to conduct clinical studies intended to provide data acceptable to the agency which will either result in or substantially contribute to approval of these products. Applicants should keep this goal in mind and must include an explanation in the ''Background and Significance'' section of the application of how their proposed study will either facilitate product approval or provide essential data needed for product development. Information regarding meetings and/or discussions with FDA reviewing division staff about the product to be studied should also be provided as an appendix to the application. This information is extremely important for the review process.

Except for medical foods that do not require premarket approval, FDA will only consider awarding grants to support clinical studies for determining whether the products are safe and effective for premarket approval under the act (21 U.S.C. 301 *et seq.*) or under section 351 of the PHS Act (42 U.S.C. 262). All studies of new drug and biological products must be conducted under the FDA's investigational new drug (IND) procedures and studies of medical devices must be conducted under the investigational device exemption (IDE) procedures. Studies of approved products to evaluate new orphan indications are also acceptable; however, these are also required to be conducted under an IND or IDE to support a change in labeling. (See section V.B. of this document (''Program Review Criteria'') for critical requirements concerning IND/IDE status of products to be studied under these grants.)

Studies submitted for the larger grants ($200,000) must be continuing in phase 2 or phase 3 of investigation. Phase 2 trials include controlled clinical studies conducted to evaluate the effectiveness of the product for a particular indication in patients with the disease or condition and to determine the common or short-term side effects and risks associated with it. Phase 3 trials gather additional information about effectiveness and safety that is necessary to evaluate the overall risk-benefit relationship of the product and to provide an adequate basis for physician labeling. Studies submitted for the smaller grants ($100,000) may be phase 1, 2, or 3 trials. If a study is submitted as a phase 1/2 trial, the maximum budget support for all years requested may not exceed $100,000 per year. Budgets for all years of requested support may not exceed the $200,000 or $100,000 limitation, whichever is applicable.

Applications must propose a clinical trial of one therapy for one indication. The applicant must provide supporting evidence that a sufficient quantity of the product to be investigated is available to the applicant in the form needed for the clinical trial. The applicant must also provide supporting evidence that the patient population has been surveyed and that there is reasonable assurance that the necessary number of eligible patients is available for the study.

Funds may be requested in the budget for travel to FDA to meet with reviewing division staff about product development progress.

II. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

Some activities carried out by a recipient under this announcement may be governed by the Department of Health and Human Services (DHHS) regulations for the protection of human research subjects (45 CFR 46). These regulations require recipients to establish procedures for the protection of subjects involved in any research activities. Prior to funding and upon request of the Office for Protection from Research Risks (OPRR), prospective recipients must have on file with OPRR an assurance to comply with 45 CFR 46. This assurance to comply is called an Assurance document. It includes the designated Institutional Review Board (IRB) for review and approval of procedures for carrying out any research activities occurring in conjunction with this award. If an applicable Assurance document for the applicant is not already on file with OPRR, a formal request for the required Assurance will be issued by OPRR at an appropriate point in the review process, prior to award, and examples of required materials will be supplied at that time. No applicant or performance site, without an approved and applicable Assurance on file with OPRR, may spend funds on human subject activities or accrue subjects. No performance site, even with an OPRR-approved and applicable Assurance, may proceed without approval by OPRR of an applicable Assurance for the recipients. Applicants may wish to contact OPRR by fax (301–402–0527) to obtain preliminary guidance on human subjects issues. When contacting OPRR, applicants should provide their institutional affiliation, geographic location, and all available Request For Applications (RFA) citation information.

Applicants are advised that the section on human subjects in the application kit entitled ''Section C. Specific Instructions—Forms, Item 4, Human Subjects,'' on pages 7 and 8 of the application kit, should be carefully reviewed for the certification of IRB approval requirements. Documentation of IRB approval for every participating center is required to be on file with the Grants Management Officer, FDA. The goal should be to include enough information on the protection of human subjects in a sufficiently clear fashion so reviewers will have adequate material to make a complete review.

B. Informed Consent

Consent and/or assent forms, and any additional information to be given to a subject, should accompany the grant application. Information that is given to the subject or the subject's representative must be in language that the subject or his or her representative can understand. No informed consent, whether oral or written, may include any language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability.

If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

C. Elements of Informed Consent

The elements of informed consent are stated in the regulations at 45 CFR 46.116 and 21 CFR 50.25 as follows:

1. Basic Elements of Informed Consent

In seeking informed consent, the following information shall be provided to each subject.

(a) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

(b) A description of any reasonably foreseeable risks or discomforts to the subject.

(c) A description of any benefits to the subject or to others which may reasonably be expected from the research.

(d) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

(e) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

(f) For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of or where further information may be obtained.

(g) An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of research-related injury to the subject.

(h) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent

When appropriate, one or more of the following elements of information shall also be provided to each subject.

(a) A statement that the particular treatment or procedure may involve risks to the subject (or the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

(b) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

(c) Any costs to the subject that may result from participation in the research.

(d) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(e) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject.

(f) The approximate number of subjects involved in the study. The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

Nothing in the notice is intended to limit the authority of a physician to provide emergency medical care to the extent that a physician is permitted to do so under applicable Federal, State, or local law.

III. Reporting Requirements

An annual Financial Status Report (SF–269) is required. The original and two copies of this report must be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the grant. Failure to file the Financial Status Report (SF–269) in a timely fashion will be grounds for suspension or termination of the grant.

For continuing grants, an annual program progress report is also required. The noncompeting continuation application (PHS 2590) will be considered the annual program progress report.

Additionally, all new and continuing grants must comply with all regulatory requirements necessary to maintain active status of their IND/IDE. This includes, but is not limited to, submission of an annual report to the appropriate regulatory review division within FDA. Failure to meet regulatory requirements will be grounds for suspension or termination of the grant.

Program monitoring of grantees will be conducted on an ongoing basis and written reports will be prepared by the project officer. The monitoring may be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator. Periodic site visits with appropriate officials of the grantee organization may also be conducted. The results of these reports will be recorded in the official grant file and may be available to the grantee upon request consistent with FDA disclosure regulations. Additionally, the grantee organization will be required to comply with all Special Terms and Conditions which state that future funding of the study will be contingent on recommendations from the OPD Project Officer verifying that: (1) There has been adequate progress toward enrollment, based on specific circumstances of the study; (2) there is an adequate supply of the product/device; and (3) There is continued compliance with all FDA regulatory requirements for the trial (e.g., annual report to IND/IDE file, communication of all protocol changes to the appropriate FDA center, etc.).

A final program progress report, Financial Status Report (SF–269), and Invention Statement must be submitted within 90 days after the expiration of the project period as noted on the Notice of Grant Award.

IV. Mechanism of Support

A. Award Instrument

Support will be in the form of a grant. All awards will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. All grant awards are subject to applicable requirements for clinical investigations imposed by sections 505, 512, and 515 of the act (21 U.S.C. 355, 360b, and 360e), section 351 of the PHS Act (42 U.S.C. 262), and regulations issued under any of these sections.

B. Eligibility

These grants are available to any public or private nonprofit entity (including State and local units of government) and any for-profit entity.

For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations described in section 501(c) 4 of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive grant awards.

C. Length of Support

The length of the study will depend upon the nature of the study. For those studies with an expected duration of more than 1 year, a second or third year of noncompetitive continuation of support will depend on: (1) Performance during the preceding year, (2) the availability of Federal funds, and (3) compliance with regulatory requirements of the IND/IDE.

D. Funding Plan

The number of studies funded will depend on the quality of the applications received and the availability of Federal funds to support the projects. Before an award will be made, OPD will verify the active status of the IND/IDE for the proposed study. If the IND/IDE for the proposed study is not active or if an annual report has not been submitted to the IND file in the last 12 months, no award will be made. Further, documentation of IRB approvals for all performance sites must be on file with the Grants Management Officer, FDA (address above), before an award can be made.

V. Review Procedure and Criteria

A. Review Method

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness to this RFA. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first-level reviewers, and funding decisions will be made by the Commissioner of Food and Drugs.

B. Program Review Criteria

Applications will be evaluated by program and grants management staff for responsiveness. Applications considered nonresponsive will be returned to the applicant, without being reviewed. Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria prior to the submission of their application. All questions of a technical or scientific nature must be directed to the OPD program staff and all questions of an administrative or financial nature must be directed to the grants management staff (see **FOR FURTHER INFORMATION CONTACT** section of this document). Responsiveness will be based on the following criteria:

(1) The application must propose a clinical trial intended to provide safety and/or efficacy data of one therapy for one orphan indication. Additionally, there must be an explanation in the ''Background and Significance'' section of the application of how the proposed study will either facilitate product approval or provide essential data needed for product development.

(2) The prevalence, not incidence, of population to be served by the product must be fewer than 200,000 individuals in the United States. The applicant should include, in the ''Background and Significance'' section, a detailed explanation supplemented by authoritative references in support of the prevalence figure. If the product has been designated by FDA as an orphan product for the proposed indication, a statement of that fact will suffice. Diagnostic tests and vaccines will qualify only if the population of intended use is fewer than 200,000 individuals in the United States per annum.

(3) The number assigned to the IND/IDE for the proposed study should appear on the face page of the application with the title of the project. Only medical foods that do not require premarket approval are exempt from this requirement. The IND/IDE must be in active status and in compliance with all regulatory requirements of FDA at the time of submission of the application. In order to meet this requirement, the original IND/IDE application, pertinent amendments, and the protocol for the proposed study must have been received by the appropriate FDA reviewing division a minimum of 30 days prior to the due date of the grant application. Studies of already approved products, evaluating new orphan indications, must also have an active IND. Exempt IND's must have their status changed to active to be eligible for this program. If the sponsor of the IND/IDE is other than the principal investigator listed on the application, a letter from the sponsor verifying access to the IND/IDE is required, and both the application's principal investigator and the study protocol must have been submitted to the IND/IDE.

(4) The requested budget should be within the limits (either $100,000 in direct costs for each year for up to 3 years for any phase study, or $200,000 in direct costs for each year for up to 3 years for phase 2 or 3 studies) as stated in this request for applications. Multi-phase studies that include phase I are only eligible for $100,000 per annum for the entire 3-year period. Any application received that requests support in excess of the maximum amount allowable for that particular study will be considered nonresponsive and returned to the applicant unreviewed.

(5) Consent and/or assent forms, and any additional information to be given to a subject, should be included in the grant application.

(6) All applicants should follow guidelines specified in the PHS 398 Grant Application kit.

(7) Evidence that a sufficient quantity of the product is available to the applicant in the form needed for the investigation must be included in the application. A current letter from the supplier as an appendix will be acceptable.

C. Scientific/Technical Review Criteria

The ad hoc expert panel will provide the first level of review. The application will be judged on the following scientific and technical merit criteria:

(1) The soundness of the rationale for the proposed study;

(2) The quality and appropriateness of the study design to include the rationale for the statistical procedures;

(3) The statistical justification for the number of patients chosen for the trial, based on the proposed outcome measures and the appropriateness of the statistical procedures to be used in analysis of the results;

(4) The adequacy of the evidence that the proposed number of eligible subjects can be recruited in the requested timeframe;

(5) The qualifications of the investigator and support staff, and the resources available to them;

(6) The adequacy of the justification for the request for financial support;

(7) The adequacy of plans for complying with regulations for protection of human subjects; and

(8) The ability of the applicant to complete the proposed study within its budget and within time limitations stated in this RFA.

The priority score will be based on the scientific/technical review criteria in section V.C of this document. In addition, the reviewers may advise the program staff concerning the appropriateness of the proposal to the

goals of the OPD Grant Program described in section I (Program Research Goals) of this document.

D. Award Criteria

Resources for this program are limited. Therefore, two or more applications should be received and approved by FDA which propose duplicative or very similar studies, FDA will support only the study with the best score.

VI. Submission Requirements

The original and five copies of the completed Grant Application Form PHS 398 (Rev. 5/95) or the original and two copies of the PHS 5161 (Rev. 7/92) for State and local governments, with copies of the appendices for each of the copies, should be delivered to Robert L. Robins (address above). State and local governments may choose to use the PHS 398 application form in lieu of the PHS 5161. The application receipt date is November 2, 1998. No supplemental or addendum material will be accepted after the receipt date. Evidence of final IRB approval will be accepted for the file after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled, ''Response to RFA FDA OPD–99''.

If an application for the same study was submitted in response to a previous RFA, but has not yet been acted upon, a submission in response to this RFA will be considered a request to withdraw the previous application. Resubmissions are treated as new applications; therefore, the applicant may wish to address the issues presented in the summary statements from the previous review.

VII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date.

Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.)

Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH). Any application that is sent to NIH, that is then forwarded to FDA and received after the applicable due date, will be deemed unresponsive and returned to the applicant. Instructions for completing the application forms can be found on the NIH home page on the Internet (address ''http://www.nih.gov/grants/funding/phs398/phs398.html''; the forms can be found at ''http://www.nih.gov/grants/funding/phs398/forms__toc.html''). However, as noted previously, applications are not to be mailed to NIH. Applicants are advised that FDA does not adhere to the page limitations or the type size and line spacing requirements imposed by the NIH on its applications). Applications must be submitted via mail delivery as stated above. FDA is unable to receive applications via the Internet.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/95). All ''General Instructions'' and ''Specific Instructions'' in the application kit should be followed with the exception of the receipt date and the mailing label address. Do not send applications to CSR, NIH. Applications from State and local governments may be submitted on Form PHS 5161 (Rev. 7/92) or Form PHS 398 (Rev. 5/95).

The face page of the application should reflect the request for applications number RFA–FDA–OPD–99. The title of the proposed study should include the name of the product and the disease/disorder to be studied along with the IND/IDE number. The format for all subsequent pages of the application should be double-spaced and single-side.

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by PHS to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925–0001.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of DHHS or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

Dated: July 29, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–20825 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96E–0270]

Determination of Regulatory Review Period for Purposes of Patent Extension; ETOPOPHOS®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ETOPOPHOS® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis

for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ETOPOPHOS® (etoposide phosphate). ETOPOPHOS® is indicated for the management of the following neoplasms: Refractory testicular tumors and small cell lung cancer. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ETOPOPHOS® (U.S. Patent No. 4,904,768) from Bristol-Myers Squibb Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 8, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ETOPOPHOS® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ETOPOPHOS® is 1,719 days. Of this time, 1,029 days occurred during the testing phase of the regulatory review period, 690 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(b)) became effective*: September 4, 1991. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on September 4, 1991.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: June 28, 1994. FDA has verified the applicant's claim that the new drug application (NDA) for ETOPOPHOS® (NDA 20–457) was initially submitted on June 28, 1994.

3. *The date the application was approved*: May 17, 1996. FDA has verified the applicant's claim that NDA 20–457 was approved on May 17, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,017 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before October 5, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before February 1, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 8, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–20826 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Knowledge of Ryan White Providers About ACTG076

NEW—The HIV/AIDS Bureau (HAB) intends to conduct a survey of approximately 305 health care providers who work in Ryan White IIIb funded programs and who treat women of childbearing age. The specific topic area of this study relates to perinatal transmission of HIV.

The purpose of this survey is to determine:

—The specific training and learning needs of providers in Ryan White funded programs with regard to HIV/AIDS issues (especially perinatal transmission of HIV) and women of childbearing age.

—The preferred modes of training.

—The level of knowledge of, and adherence to, Government protocols for treating women of childbearing age and reducing the risk of perinatal transmission of HIV.

—The familiarity of practitioners with recent advances in HIV/AIDS treatments such as protease inhibitors and combined therapies.

Results from this research will be used to develop specific training curricula for these providers and to enhance educational and service delivery-related support for Bureau-funded providers and clinics.

The study will be a self-administered mail survey, with phone follow-up if necessary to improve response rates.

The estimated respondent burden is as follows:

Type of respondent	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Health care providers	305	1	.25	76

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 31, 1998.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 98–20877 Filed 8–4–98; 8:45 am]

BILLING CODE 4160–15–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 August 1998.

A summary 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 Contacts 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 Dates: August 10–12, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 10–11, 1998 9:00 a.m.–5:00 p.m. August 12, 1998 9:00 a.m.—adjournment.

Panel: Center for Mental Health Services State Indicator Pilot SM 98–010.

Contact: Boris R. Aponte, Room 17–89, Parklawn Building, Telephone: 301–443–2290 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: August 17–18, 1998.

Place: Hyatt Regency At Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 17, 1998 9:00 a.m.–5:00 p.m.–August 18, 1998 9:00 a.m., adjournment.

Panel: Center for Substance Abuse Treatment Grants for Identification of Exemplary Treatment Models for Adolescents TI 98–007.

Contact: C. Danielle Johnson, Room 17–89, Parklawn Building, Telephone: 301–443–2683 and FAX: 301–443–3437.

Committee Name: Special Emphasis Panel I.

Meeting Date(s): August 17–20, 1998.

Place: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia 22202.

Closed: August 17–19, 1998 8:00 a.m.–4:00 p.m., August 20, 1998 8:00 a.m.–adjournment.

Panel: Center for Substance Abuse Treatment State, Regional, and Local Recovery Network Development TI 98–08.

Contact: Boris Aponte, Room 17–89, Parklawn Building, Telephone: 301–443–2290; and FAX: 301–443–3437.

This notice is being published less than 15 days prior to the August 10–12 meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: July 30, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–20827 Filed 8–4–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On March 11, 1998, the Service received an application from Harald Mueller for a permit (PRT–840852) to import two sport-hunted polar bear trophies, taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada, for personal use. On April 9, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 68, Page 17463, which incorrectly noted import of only one trophy.

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 July 3, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 128, Page 36070, that an application had been filed with the Fish and Wildlife Service by Gary Dumdei, Grand Rapids, MN, for a permit (PRT–829908) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Southern Beaufort Sea population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on July 1, 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 May 20, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 97, Page 27744, that an application had been filed with the Fish and Wildlife Service by Kenneth J. Semelsberger, Strongsville, OH for a permit (PRT–842191) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Western Hudson Bay population, Canada, for personal use.

Notice is hereby given that on July 2, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On May 20, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 97, Page 27744, that an application had been filed with the Fish and Wildlife Service by Ken D. Semelsberger, Strongsville, OH for a permit (PRT–842192) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Western Hudson Bay population, Canada, for personal use.

Notice is hereby given that on July 2, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On April 30, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 83, Page 23794, that an application had been filed with the Fish and Wildlife Service by Prince T. House, Little Rock, AR, for a permit (PRT–841894) 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 July 15, 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 30, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 83, Page 23793, that an application had been filed with the Fish and Wildlife Service by Allan E. Bergland, Flagstaff, AZ, for a permit (PRT–841205) to 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 July 22, 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. 68, Page 17436, that an application had been filed with the Fish and Wildlife Service by Michael J. Moir for a permit (PRT–840789) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the McClintock Channel population, Northwest Territories, Canada, for personal use.

Notice is hereby given that on July 16, 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 30, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 83, Page 23793, that an application had been filed with the Fish and Wildlife Service by Ravetch Underwater Films, for a permit (PRT–841982) to photograph walrus (*Odobenus rosmarus*) involving no more than Level B harassment in the area of Cape Pierce, Alaska for commercial/educational purposes.

Notice is hereby given that on July 16, 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 May 29, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 103, Page 29422, that an application had been filed with the Fish and Wildlife Service by Wallace W. Bednarz, Williamsport, PA, for a permit (PRT–843165) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Wiscount Melville, Northwest Territories population, Canada, prior to April 30, 1994.

Notice is hereby given that on July 21, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: July 31, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–20868 Filed 8–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication; AA–8096–03 Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Chugach Alaska Corporation, notice of which was published in the **Federal Register** on June 24, 1998, is modified because of a change in the wording of an easement.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the modified DIC may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until September 4, 1998 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given June 24, 1998, is final.

Chris Sitbon,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98–20858 Filed 8–4–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0137; OR–19061, OR–19065]

Public Land Order No. 7352; Revocation of Executive Orders Dated October 18, 1912, and December 14, 1912; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in their entirety, two Executive orders which withdrew 945.86 acres of public and National Forest System lands for Bureau of Land Management Powersite Reserve Nos. 289 and 323. The lands are no longer needed for the purposes for which they were withdrawn. This action will open 465.86 acres to surface entry and 480 acres to such forms of disposition as may by law be made of National Forest System lands. All of the lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6189.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated October 18, 1912, which established Powersite Reserve No. 289, is hereby revoked in its entirety:

Willamette Meridian

Fremont National Forest

T. 34 S., R. 18 E.,
Sec. 9, W½E½ and W½.

The area described contains 480 acres in Lake County.

2. The Executive Order dated December 14, 1912, which established Powersite Reserve No. 323, is hereby revoked in its entirety:

Willamette Meridian

T. 34 S., R. 18 E.,
Sec. 4, lots 1, 4, 5, 6, 8, and 10, SW¼, and W½SE¼.

The area described contains 465.86 acres in Lake County.

3. At 8:30 a.m., on November 4, 1998, the lands described in paragraph 1 will be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

4. At 8:30 a.m., on November 4, 1998, the lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on November 4, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. The State of Oregon has a preference right, as to the lands described in paragraph 2, for public highway right-of-way or material sites for a period of 90 days from the date of publication of this order and any location, entry, selection, or subsequent patent shall be subject to any rights granted the State as provided by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994).

Dated: July 22, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–20845 Filed 8–4–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0126; OR–19612 (WA), OR–22219 (WA)]

Public Land Order No. 7351; Revocation of Secretarial Orders dated March 6, 1916 and April 14, 1924; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in their entirety two Secretarial orders as to 4,030.86 acres of public lands withdrawn for Bureau of Land Management Powersite Reserve No. 526 and Powersite Classification No. 65. The lands are no longer needed for the purposes for which they were withdrawn. The lands are within the Yakima Indian Reservation and this action will open the lands to such forms of disposition as may by law be made of Indian Reservation lands.

EFFECTIVE DATE: September 4, 1998.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6189.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated March 6, 1916, which established Powersite Reserve No. 526, is hereby revoked in its entirety:

Willamette Meridian

T. 9 N., R. 12 E.,
Sec. lots 6 and 7, SW¼NE¼, and NW¼SE¼;
Sec. 12, lots 1 and 2.
T. 9 N., R. 13 E.,
Sec. 7, lots 1, 2, 5, and 6, SW¼NE¼, E½NW¼, SE¼SW¼, and SE¼;
Sec. 18, E½;
Sec. 19, NE¼NE¼, SW¼NE¼, SE¼SE¼NE¼, and NE¼SE¼.

The areas described aggregate 1,127.66 acres in Yakima County.

2. The Secretarial Order dated April 14, 1924, which established Powersite Classification No. 65, is hereby revoked in its entirety:

Willamette Meridian

T. 8 N., R. 12 E.,
Sec. 10, NE¼SE¼;
Sec. 11, S½SE¼;
Sec. 14, NW¼NE¼;
Sec. 22, SW¼SW¼;
Sec. 27, NE¼NE¼.
T. 9 N., R. 12 E.,
Sec. 1, lot 2;
Sec. 2, lots 1 and 2, S½NE¼, and SE¼;
Sec. 9, N½NE¼ and SE¼NE¼;
Sec. 10, N½S½ and SE¼SE¼;
Sec. 11, S½;
Sec. 12, W½W½ and SE¼SW¼;
Sec. 13, lots 2, 3, and 4, W½E½, NW¼, N½SW¼, and SE½SW¼;
Sec. 14, N½NE¼, SE¼NE¼, and NE¼NW¼;
Sec. 24, lot 1 and NE¼SW¼.
T. 9 N., R. 13 E.,
Sec. 6, lots 6 and 7, and SE¼SW¼;
Sec. 17, lot 4;
Sec. 19, SE¼NE¼;
Sec. 20, NW¼NW¼;
Sec. 30, lots 3 and 4, and NW¼NE¼.
T. 10 N., R. 13 E.,
Sec. 20, SE¼SE¼;
Sec. 25, SE¼NW¼ and NE¼SW¼;
Sec. 35, lot 1, E½NE¼, and NE¼SE¼;
Sec. 36, lot 2 and NE¼NW¼.

The areas described aggregate 2,903.20 acres in Yakima County.

3. At 8:30 a.m. on September 4, 1998, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law, the lands described in paragraphs 1 and 2, will be opened to such forms of disposition as may by law be made of Indian Reservation lands.

Dated: July 22, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98–20844 Filed 8–4–98; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–397]

Certain Dense Wavelength Division Multiplexing Systems and Components Thereof; Notice of Commission Determination to Grant a Joint Petition To Rescind a Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint petition of Ciena Corporation (Ciena) and Pirelli S.p.A., Pirelli Cavi e Sistemi S.p.A., and Pirelli Cables and Systems LLC (collectively ''Pirelli'') to rescind the consent order issued against Pirelli in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carl Bretscher, Esq., or Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3107, or 202–205–

3104, respectively. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on April 2, 1997, based on a complaint filed by Ciena in which it alleged that Pirelli violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by importing into the United States, selling for importation, and/or selling in the United States after importation certain dense wavelength division multiplexing systems or components that infringe certain claims of Ciena's U.S. Letters Patent 5,557,439 and/or U.S. Letters Patent 5,504,609. 62 FR 17639 (April 10, 1997).

On November 25, 1997, Ciena and Pirelli filed a joint motion to terminate the investigation by consent order. On December 24, 1997, movants supplemented their joint motion by filing a revised proposed consent order. On March 5, 1998, the presiding administrative law judge (ALJ) issued an initial determination (ID) terminating the investigation on the basis of the revised consent order. On March 24, 1998, the Commission determined not to review the ALJ's ID, 63 FR 15887 (April 1, 1998), thereby allowing it to become the final determination of the Commission.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 USC 1337, and Commission rule 210.76, 19 CFR 210.76.

Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000.

By order of the Commission.

Issued: July 30, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–20886 Filed 8–4–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–380–382 and 731–TA–797–804 (Preliminary)]

Certain Stainless Steel Sheet and Strip From France, Germany, Italy, Japan, the Republic of Korea, Mexico, Taiwan, and the United Kingdom

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured [2] or threatened with material injury [3] by reason of imports from France, Italy, and the Republic of Korea (Korea) of certain stainless steel sheet and strip,[4] that are alleged to be subsidized by the Governments of France, Italy, and Korea. The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] or threatened with material injury [3] by reason of imports from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom of certain stainless steel sheet and strip, that are alleged to be sold in the United States at less than fair value.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 703(b) and section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of these investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On June 10, 1998, petitions were filed with the Commission and Commerce by counsel for Allegheny Ludlum Corporation; Armco, Inc.; J&L Specialty Steel, Inc.; Washington Steel Division of Bethlehem Steel Corp.; the United Steelworkers of America, AFL–CIO; Butler Armco Independent Union; and Zanesville Armco Independent Organization, Inc., alleging that an industry in the United States is materially injured by reason of subsidized imports of certain stainless steel sheet and strip from France, Italy, and Korea, and LTFV imports from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom. Accordingly, effective June 10, 1998, the Commission instituted countervailing duty investigations Nos. 701–TA–380–382 (Preliminary) and antidumping investigations Nos. 731–TA–797–804 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 17, 1998 (63 FR 33092). The conference was held in Washington, DC, on July 1, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 27, 1998. The views of the Commission are contained in USITC Publication 3118 (August 1998), entitled "Certain Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, the Republic of Korea, Mexico, Taiwan, and

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Bragg and Commissioner Crawford determine that there is a reasonable indication that an industry in the United States is materially injured.

[3] Vice Chairman Miller determines that there is a reasonable indication that an industry in the United States is threatened with material injury.

[4] The merchandise subject to these investigations is stainless steel sheet and strip in coils and is currently classified in the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 7219.13.00, 7219.14.00, 7219.32.00, 7219.33.00, 7219.34,00, 7219.35.00, 7219.90.00, 7220.12.10, 7220.12.50, 7220.20.10, 7220.20.60, 7220.20.70, 7220.20.80, 7220.20.90, and 7220.90.00

the United Kingdom: Investigations Nos. 701–TA–380–382 and 731–TA–797–804 (Preliminary).''

By order of the Commission.

Issued: July 29, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–20887 Filed 8–4–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–345]

Shifts in U.S. Merchandise Trade in 1998

AGENCY: United States International Trade Commission.

EFFECTIVE DATE: July 23, 1998.

ACTION: Opportunity to submit written statements in connection with the report issued in July 1999.

SUMMARY: The Commission has prepared and published annual reports on U.S. trade shifts in selected industries/commodity areas under investigation No. 332–345 since 1993. The Commission plans to publish the next report in July 1999, which will cover shifts in U.S. trade in 1998 compared with trade in 1997. The report structure and content is anticipated to be similar to the report issued in July 1998. Comments and suggestions regarding the July 1999 report are welcome in written submissions as specified below. The latest version of the report covering 1997 data (USITC Publication 3120, July 1998) may be obtained from the ITC's Internet server (http://www.usitc.gov). A printed report may be requested by contacting the Office of the Secretary at 202–205–2000 or by fax at 202–205–2104.

FOR FURTHER INFORMATION CONTACT: Questions about the trade shifts report may be directed to the project leader, Cherly Badra Qassis, Office of Industries (202–205–3436) or the assistant project leader, Tracy Quilter, Office of Industries (202–205–3437). For information on the legal aspects, please contact Mr. William Gearhart, Office of General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202)–205–1810).

Background

The initial notice of institution of this investigation was published in the **Federal Register** of September 8, 1993 (58 FR 47287). The Commission expanded the scope of this investigation to cover service trade in a separate report, which it announced in a notice published in the **Federal Register** of December 28, 1994 (59 FR 66974). The merchandise trade report has been published in the current series under investigation No. 332–345 annually since September 1993. As in past years, each report will summarize and provide analyses of the major trade developments that occurred in the preceding year, and is expected to be published in July of each year. The reports will also provide summary trade information and basic statistical profiles of nearly 300 industry/commodity groups.

Written Submissions

No public hearing is planned. However, interested persons are invited to submit written comments or suggestions concerning the July 1999 report. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules and Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on December 30, 1998. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Issued: July 31, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–20885 Filed 8–4–98; 8:45 am]

BILLING CODE 7020–02–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on Rules of Bankruptcy and Civil Procedure and Rules of Evidence

AGENCY: Judicial Conference of the United States; Advisory Committee on Rules of Bankruptcy and Civil Procedure and Rules of Evidence.

ACTION: Notice of open hearings.

SUMMARY: The Advisory Committees on Rules of Bankruptcy and Civil Procedure and Rules of Evidence have proposed the following rules:

Bankruptcy Rules: *Litigation Package:* 1006, 1007, 1014, 1017, 2001, 2004, 2007, 2014, 2016, 3001, 3006, 3007, 3012, 3013, 3015, 3019, 3020, 4001, 6004, 6006, 6007, 9006, 9013, 9014, 9017, 9021, and 9034; *Other Amendments:* 1007, 1017, 2002, 4003, 4004, and 5003; and *Official Forms:* 1 and 7.

Civil Rules: 4, 5, 12, 26, 30, 34, and 37; and Admiralty Rules B, C, and E.

Evidence Rules: 103, 404, 701, 702, 703, 803, and 902.

Public hearings will be held on the amendments to: the Bankruptcy Rules in Washington, D.C. on January 28, 1999; the Civil Rules in Baltimore, Maryland on December 7, 1998; in San Francisco, California on January 22, 1999; and in Chicago, Illinois on January 29, 1999; and the Evidence Rules in Washington, D.C. on October 22, 1998; in Dallas, Texas on December 4, 1998; and in San Francisco, California on January 25, 1999.

The Judicial Conference Committee on Rules of Practice and Procedure submits these rules for public comment. All comments and suggestions with respect to them must be placed in the hands of the Secretary as soon as convenient and, in any event, no later than January 1, 1999 for the Bankruptcy Rules, and no later than February 1, 1999 for the Civil and Evidence Rules.

Anyone interested in testifying should write to Mr. Peter G. McCabe, Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, D.C. 20544, at least 30 days before the hearing.

FOR FURTHER INFORMATION CONTACT:

John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, D.C. 20544, telephone (202) 273–1820.

Dated: July 30, 1998.

John K. Rabiej,

Chief, Rules Committees Support Office.

[FR Doc. 98–20917 Filed 8–4–98; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Civil Rights Division

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: Notice of information collection under review; Extension of a currently approved collection; Procedures for the administration of section 5 of the Voting Rights Act of 1965.

The Department of Justice, Civil Rights Division, has submitted the following information collection request utilizing emergency review procedures, to OMB for review and clearance in accordance with the 5 CFR 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The Civil Rights Division has determined that it cannot reasonably comply with the normal clearance procedures under this part of the Act because normal clearance procedures are reasonable likely to prevent or disrupt the collection of information.

The information collection is now published to obtain comments from the public and affected agencies. OMB approval has been requested by July 31, 1998. If granted, the emergency approval is only valid for 180 days.

Comments and questions about the emergency information collection request listed below should be forwarded to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until October 5, 1998. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

3. Agency form number and applicable component. Form Number = None. Civil Rights Division, U.S. Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract. *Primary:* State, Local, and Trial Government. Other: None. Jurisdictions covered under the Voting Rights Act are required to obtain preclearance from the Attorney General (AG) before instituting changes affecting voting. They must convince the AG that voting changes are not racially discriminatory. The procedures facilitate that provision of information that will enable the AG to make the required determination.

5. *An estimate of the total number of respondents and the amount of time estimated for the average respondent to respond:* 10,103 respondents with the average response at 10.021 hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* 47,365 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Public comment on this proposed information collection is strongly encouraged.

Dated: July 30, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–20940 Filed 8–4–98; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1189]

RIN 1121–ZB26

Announcement of the Availability of the National Institute of Justice Solicitation for ''Forensic Document Examination Validation Studies''

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice solicitation for ''Forensic Document Examination Validation Studies.''

DATES: Due date for receipt of proposals is close of business August 14, 1998.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice calls for proposals to determine the scientific validity of handwriting identification. Two major areas of research will be required for each proposal:

(A) Statistical validation of individuality in handwriting—application should include projected data set, measurement tools, statistical analysis;

(B) statistical validation of standard operating procedures for handwriting comparison—application should include projected data set, Standard Operating Procedures, experimental designs, and statistical analysis.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to

obtain a copy of ''Forensic Document Examination Validation Studies'' (refer to document no. SL000297). For World Wide Web access, connect either to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–20808 Filed 8–4–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 31, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Own ((202) 219–5096 ext. 143) or by E-mail to Owen-Todd@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Federal Employees' Compensation Act (FECA) Medical Report Forms.

OMB Number: 1215–0103 (extension).

Agency Numbers: CA–7, CA–16b, CA–17b, CA–20, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, CA–1336, OWCP–5a, OWCP–5b, OWCP–5c.

Frequency: As needed.

Affected Public: Business or other for-profit; Federal Government; Individuals or households.

Number of Respondents: 441,855.

Total Responses: 441,855.

Total Burden Hours: 43,414.

Form	Respondents	Responses	Average minutes per response	Burden hours
CA–7	400	400	13	87
CA–16b	157,000	157,000	5	13,083
CA–17b	134,000	134,000	5	11,167
CA–20	112,000	112,000	5	9,333
CA–1090	800	800	5	67
CA–1303	4,000	4,000	20	1,333
CA–1305	80	80	20	27
CA–1306	25	25	10	4
CA–1314	1,200	1,200	20	400
CA–1316	1,100	1,100	10	183
CA–1331	750	750	5	63
CA–1332	1,500	1,500	30	750
CA–1336	2,000	2,000	5	167
OWCP–5a	7,000	7,000	15	1,750
OWCP–5b	5,000	5,000	15	1,250
OWCP–5c	15,000	15,000	15	3,750

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services: $154,649.

Description: Statute 5 U.S.C. 8101 et seq. of the Federal Employees' Compensation Act provides for the payment of benefits for wage loss and/or for permanent payment to a scheduled member, arising out of a work related injury or disease. The CA–7 and CA–8 request information allowing the Office of Workers' Compensation Programs to fulfill its statutory requirements for the period of compensation claimed (*e.g.*, the pay rate, dependents, earnings, dual benefits, and third party information). The other forms in this proposed revision collection collect medical information necessary to determine entitlements to benefits.

Agency: Occupation Safety and Health Administration.

Title: Personal Protective Equipment (29 CFR 1910.132).

OMB Number: 1218–0205 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 63,500.

Total Responses: 63,500.

Estimated Time per Respondent: Varies from five minutes to three hours.

Total Burden Hours: 21,140.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as are necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collected by employers as necessary or appropriate

for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents.

In 219 CFR 1910.132, Personal Protective Equipment (PPE), employers are required to perform a hazard assessment of the workplace and to certify that it has been performed. They are also required to certify that their employees have received, and understood PPE training.

OSHA inspectors will require employers to provide them with access to information during Agency inspections. The documents, which can be written or computer generated, are needed to verify that employers are in compliance with the standard. Additionally, the documents may be used as a ''grandfather'' mechanism. That is, an employer can verify that an existing hazard assessment and/or training program already meets the standards. This will eliminate the need for the employer to reassess the workplace or retrain employees.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–20927 Filed 8–4–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

Migrant and Seasonal Farmworker Advisory Committee

AGENCY: Employment and Training Administration (ETA), U.S. Department of Labor.

ACTION: Notice of establishment of the Migrant and Seasonal Farmworker Employment and Training Advisory Committee.

SUMMARY: A Committee has been established to advice the Secretary and the Assistant Secretary for Employment and Training (ETA) regarding the overall operation and administration of Migrant and Seasonal Farmworker programs authorized under Title IV, Section 402 of the Job Training Partnership Act, as amended, as well the coordination of other programs providing services to migrant and seasonal farmworkers. The Committee shall prepare and submit directly to the Secretary, not later than January 1 of each even numbered year, a report containing information on the progress of migrant and seasonal farmworker job training programs and recommendations for improving their administration and effectiveness.

The Committee will consist of approximately fifteen members as follows: twelve (12) members from the Section 402 community appointed by the Secretary from among individuals nominated by Section 402 grantee organizations, and three (3) members from organizations, associations and other Federal agencies with expertise relative to migrants and seasonable farmworkers, to be appointed directly by the Secretary. The membership of the Committee shall represent all geographic areas of the United States, including the Commonwealth of Puerto Rico, with a substantial migrant and seasonal farmworker population. A majority of the members shall have field experience in the operation and administration of Section 402 programs.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

ADDRESSES: Any written comments in response to this notice should be sent to the following address: Anna W. Goddard, Director, Office of National Programs, U.S. Department of Labor, Employment and Training Administration, Room N–4641, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 219–5500, extension 122 (this is not a toll free number).

Signed at Washington, D.C. this 30th day of July, 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–20925 Filed 8–4–98; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Changes to the General Records Schedules; Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, D.C.

ACTION: Notice.

SUMMARY: NARA is required by 44 U.S.C. 3303a(a) to provide an opportunity for public comment on proposed records schedules that will authorize the destruction of Federal records. This notice contains the full text of proposed changes to the General Records Schedules which are issued by NARA to provide mandatory disposal authorities for temporary administrative records common to several or all Federal agencies (44 U.S.C. 3303a(d)). NARA is departing from its normal practice of publishing notice of availability of records schedules in this instance in order to accelerate the review process and maximize the exposure of the proposed changes. This notice also includes the rationale for the proposed changes, equivalent to the appraisal report. Consequently, this notice provides all available information for interested parties who may wish to comment.

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

ADDRESSES: Comments may be sent electronically to the e-mail address <records.mgt@arch2.nara.gov>. If attachments are sent, please transmit them in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0. Comments may also be submitted by mail to the Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, or by FAX to 301–713–6852 (attn: Marc Wolfe). In order for comments to be considered, the NARA registration number for this schedule—N1–GRS–98–2—must be included in a subject line or otherwise prominently stated.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–713–7110. E-mail: <records.mgt@arch2.nara.gov>.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. No Federal records are authorized for destruction without the approval of the Archivist of the United States. Two mechanisms are used to provide that approval—agency schedules and General Records Schedules. Agencies develop and submit to NARA for approval schedules for the records that are unique to the agency. Once approved by the Archivist, the agencies may apply the approved disposition authorities to the records for as long as they remain unchanged. To reduce the effort required of agencies in scheduling all their records, the National Archives and Records Administration issues

General Records Schedules to provide disposal authorities for temporary administrative records that are common to several or all agencies.

The changes proposed in N1–GRS–98–2 consist of items that are currently scheduled with an indefinite retention, *e.g.*, ''destroy when no longer needed.'' Because the Archivist has determined that indefinite retention periods are inappropriate for the GRS. N1–GRS–98–2 was developed to replace the indefinite retention periods with more specific retention periods. In conducting the review of the GRS items with indefinite retention periods, NARA identified a few items that were described as ''duplicates'' or otherwise clearly nonrecord copies. These items will be deleted because a definitive Government-wide retention period cannot be applied to nonrecord materials, and the item numbers will be reserved to preserve the current numbering for the continuing authorities.

The proposed schedule, N1–GRS–98–2, contains the following provisions:

GRS 1, Civilian Personnel Records

4. *Offers of Employment Files.*

Correspondence, including letters and telegrams, offering appointments to potential employees.

a. Accepted offers.

Destroy when appointment is effective.

23. *Employee Performance File System Records.*

a. Non-SES appointees (as defined in 5 U.S.C. 4301(2)).

(3) Performance-related records pertaining to a former employee.

(a) Latest rating of record 3 years old or less, performance plan upon which it is based, and any summary rating.

(b) All other performance plans and ratings.

Destroy when 4 years old.

(5) Supporting documents.

Destroy 4 years after date of appraisal.

b. SES appointees (as defined in 5 U.S.C. 3132a(2)).

(2) Performance-related records pertaining to a former SES appointee.

(a) Latest rating of record that is less than 5 years old, performance plan upon which it is based, and any summary rating.

(b) All other performance ratings and plans.

Destroy when 5 years old.

(4) Supporting documents.

Destroy 5 years after date of appraisal.

36. *Federal Workplace Drug Testing Program Files.*

Drug testing program records created under Executive Order 12564 and Public Law 100-71, Section 503 (101 Stat. 468), EXCLUDING consolidated statistical and narrative reports concerning the operation of agency programs, including annual reports to Congress, as required by Public Law 100–71, § 503(f).

This authorization does not apply to oversight program records of the Department of Health and Human Services, the Office of Personnel Management, the Office of Management and Budget, the Office of National Drug Control Policy, and the Department of Justice.

a. Drug test plans and procedures, EXCLUDING documents that are filed in record sets of formal issuances (directives, procedures handbooks, operating manuals, and the like.)

Agency copies of plans and procedures, with related drafts, correspondence, memoranda, and other records pertaining to the development of procedures for drug testing programs, including the determination of testing incumbents in designated positions.

Destroy when 3 years old or when superseded or obsolete. [See note (2).]

Notes: (2) Any records covered by items 36a–e that are relevant to litigation or disciplinary actions should be disposed of no earlier than the related litigation or adverse action case file(s).

General Records Schedule 3, Procurement, Supply and Grant Records

16. *Contractor's Statement of Contingent or Other Fees.*

Standard Form 119, Contractor's Statement of Contingent or Other Fees, or statement in lieu of the form, filed separately from the contract case file and maintained for enforcement or report purposes.

Destroy when superseded or obsolete.

General Records Schedule 14, Information Services Records

1. *Information Requests Files.*

Requests for information and copies of replies thereto, involving no administrative actions, no policy decisions, and no special compilations or research and requests for and transmittals of publications, photographs, and other information literature.

Destroy when 3 months old.

14. *FOIA Reports Files.*

Recurring reports and one-time information requirements relating to the agency implementation of the Freedom of Information Act, EXCLUDING annual reports to the Congress at the departmental or agency level.

Destroy when 2 years old.

15. *FOIA Administrative Files.*

Records relating to the general agency implementation of the FOIA, including notices, memoranda, routine correspondence, and related records.

Destroy when 2 years old.

26. *Privacy Act General Administrative Files.*

Records relating to the general agency implementation of the Privacy Act, including notices, memoranda, routine correspondence, and related records.

Destroy when 2 years old.

34. *Mandatory Review for Declassification Reports Files.*

Reports relating to agency implementation of the mandatory review provisions of the current Executive Order on classified national security information, including annual reports submitted to the Information Security Oversight Office.

Destroy when 2 years old.

35. *Mandatory Review for Declassification Administrative Files.*

Records relating to the general agency implementation of the mandatory review provisions of the current Executive Order on classified national security information, including notices, memoranda, correspondence, and related records.

Destroy when 2 years old.

General Records Schedule 16, Administrative Management Records

2. *Records Disposition Files.*

Descriptive inventories, disposal authorizations, schedules, and reports.

a. Basic documentation of records description and disposition programs, including SF 115, Request for Records Disposition Authority; SF 135, Records Transmittal and Receipt; SF 258, Request to Transfer, Approval, and Receipt of Records to National Archives of the United States; and related documentation.

(1) SF 115s that have been approved by NARA.

Destroy 2 years after supersession.

(2) Other records.

Destroy 6 years after the related records are destroyed, or after the related records are transferred to the National Archives, whichever is applicable.

b. Routine correspondence and memoranda.

Destroy when 2 years old.

7. *Records Management Files.*

Correspondence, reports, authorizations, and other records that relate to the management of agency records, including such matters as forms, correspondence, reports, mail, and files management; the use of microforms, ADP systems, and word processing; records management surveys; vital records programs; and all other aspects of records management not covered elsewhere in this schedule.

Destroy when 6 years old.

8. *Committee and Conference Files.*

b. Records created by committees.

(1) Agenda, minutes, final reports, and related records documenting the accomplishments of official boards and committees, EXCLUDING those maintained by the sponsor or Secretariat.

Destroy when 3 years old.

(2) All other committee records.

Destroy when 3 years old.

10. *Microform Inspection Records.*

b. Agency copy of logs and other records documenting the inspection of temporary microform records, as recommended by 36 CFR Part 1230. Destroy when 2 years old or when superseded, whichever is later.

14. *Management Control Records.*

Records created in accordance with procedures mandated by OMB Circular A–123, Management Accountability and Control Systems, and PL. 97–255, the Federal Managers' Financial Integrity Act. Under these authorities, agencies are required to perform evaluations of their accounting and administrative controls to prevent waste, fraud, and mismanagement.

e. Tracking files.

Files used to ensure the completion and timeliness of submission of feeder reports, including schedules of evaluations, interim reporting, lists of units required to report, and correspondence relating to the performance of the reviews.

Destroy 1 year after report is completed.

General Records Schedule 17, Cartographic, Aerial Photographic, Architectural, and Engineering Records

2. *Reserved.*

3. *Drawings of Temporary Structures or Objects or of Structures or Objects Not Critical to the Mission of the Agency.*

Drawings of structures and buildings such as telephone and electric lines, storage sheds, parking lots, furniture and equipment, and comfort stations.

Destroy when superseded or after the structure or object has been retired from service.

4. *Drawings of Electrical, Plumbing, Heating, or Air Conditioning Systems.*

Destroy when superseded or after the structure or object has been retired from service.

5. *Contract Negotiation Drawings.*

Drawings prepared during contract negotiation for buildings or objects lacking historical, architectural, or technological significance; drawings related to electrical, plumbing, heating, or air conditioning projects; or drawings superseded by final working/as built drawings.

Destroy when final working/as-built drawings have been produced.

6. *Space Assignment Plans.*

Outline floor plans indicating occupancy of a building.

Destroy when superseded or after the structure or object has been retired from service.

7. *Reserved.*

8. *Engineering Drawings of Routine Minor Parts.*

Drawings of such objects as fasteners, nuts, bolts, wires, screws, nails, pipefittings, brackets, struts, plates, and beams, if maintained separately or if segregable from a larger file.

Destroy when superseded or after the structure or object has been retired from service.

9. *Drawings Reflecting Minor Modifications.*

Repetitive engineering drawings showing minor modifications made during research and development, and superseded by final drawings, if filed separately or if readily segregable from a larger file.

Destroy when superseded or after the structure or object has been retired from service.

10. *Paint Plans and Samples.*

Plans and paint samples for painting all areas of buildings lacking historical, architectural, or technological significance and plans and samples for painting appliances, elevators, and other mechanical parts of buildings.

Destroy when superseded or after the structure or object has been retired from service.

General Records Schedule 18, Security and Protective Services Records

24. *Security Violations Files.*

Case files relating to investigations of alleged violations of Executive Orders, laws, or agency regulations for the safeguarding of national security information.

[a. Files relating to alleged violations of a sufficiently serious nature that they are referred to the Department of Justice or Defense for prosecutive determination, exclusive of files held by Department of Justice or Defense offices responsible for making such determinations.

Destroy 5 years after close of case.]

SUB–ITEM 24a IS UNCHANGED FROM CURRENT SCHEDULE.

b. All other files, exclusive of documents placed in official personnel folders.

Destroy 2 years after completion of final action.

General Records Schedule 21, Audiovisual Records

Still Photography

1. *Photographs of routine award ceremonies, social events, and activities not related to the mission of the agency.*

Destroy when 1 year old.

2. *Personnel identification or passport photographs.*

Destroy when 5 years old or when superseded or obsolete, whichever is later.

4. *Reserved.*

Graphic Arts

5. *Viewgraphs.*

Destroy 1 year after use.

6. *Routine artwork for handbills, flyers, posters, letterhead, and other graphics.*

Destroy 1 year after final publication.

8. *Line copies of graphs and charts.*

Destroy 1 year after final production.

Motion Pictures

10. *Reserved.*

11. *Routine surveillance footage.*

Destroy when 6 months old.

12. *Routine scientific, medical, or engineering footage.*

Destroy when 2 years old.

13. *Reserved.*

Video Recordings

15. *Reserved.*

18. *Routine surveillance recordings.*

Destroy when 6 months old.

19. *Routine scientific, medical, or engineering recordings.*

Destroy when 2 years old.

20. *Recordings that document routine meetings and award presentations.*

Destroy when 2 years old.

21. *Reserved.*

Audio (Sound) Recordings

25. *Reserved.*

26. *Daily or spot news recordings available to local radio stations on a call-in basis.*

Destroy when 6 months old.

27. *Reserved.*

Explanation of Changes

1. GRS 1, item 4a, Correspondence related to accepted offers of employment. Current disposition instruction: Destroy when no longer needed. Revised disposition instruction: Destroy when appointment is effective.

The original disposition (1952) for this item was ''destroy when position is accepted.'' An agency may have an administrative need for the information in this correspondence until the individual officially joins the agency.

2. For the following GRS items, the specific language in the current

disposition instruction will be retained, but the clause containing the phrase ''if/when no longer needed'' will be deleted. The disposition instruction for some of these items sets a maximum retention period, not a mandatory retention period. The indefinite (when no longer needed) clause allowed agencies to destroy the records sooner. For other items, the indefinite language allowed agencies to retain the records for an unspecified period of time beyond a minimum period. Removing the clause will establish uniform, consistent retentions periods for these records throughout Government. Should any agency wish to establish a different retention period, it may submit an SF 115, Request for Records Disposition Authority in accordance with 36 CFR 1228.42.

GRS 1, item 23a(3) and (5), Non-SES performance records
GRS 1, item 23b(2)(b) and (4), SES performance records
GRS 1, item 36a, Drug testing records
GRS 3, item 16, Contractors statement of contingent or other fees
GRS 14, item 1, Requests for information
GRS 14, items 14, 15, 26, 34, and 35, FOIA, Privacy Act, and mandatory review records
GRS 16, item 7, Records management subject files
GRS 16, items 8b (1) and (2), Committee files
GRS 18, item 24b, Security violations files
GRS 21, items 1, 5, 6, 8, 12, 19, and 26, Audiovisual records

3. GRS 16, item 2a covers records disposition inventories, forms (SF 115, Request for Records Disposition Authority, SF 135, Records Transmittal and Receipt, and SF 258, Agreement to Transfer Records to the National Archives of the United States), and reports.

Current disposition: Destroy when related records are destroyed, or transferred to the National Archives, or when no longer needed for administrative or reference purposes.

A review of this item revealed that the retention period for the SF 115, which provides continuing records disposition authority, should be different from the other records covered by this item. Consequently, the proposed disposition provides for two sub-items:

(1) SF 115s that have been approved by NARA.

Destroy 2 years after supersession.

(2) Other records.

Destroy 6 years after the related records are destroyed, or after the related records are transferred to the National Archives, whichever is applicable.

The six year retention period for sub-item b is based on agencies' use of the SF 135 and SF 258 to determine the location of records in response to a FOIA or other request for the records.

4. GRS 16, item 2b, Routine records disposition correspondence.

Current disposition instruction: Destroy when no longer needed.

Revised disposition instruction: Destroy when 2 years old. Similar items in other general schedules have a two-year retention period.

5. GRS 16, item 10, Microform inspection records.

Current disposition instruction: Destroy when no longer needed.

Revised disposition instruction: Destroy when 2 years old or when superseded, whichever is later. The inspection of microform copies of temporary records is optional (36 CFR 1230.22(b)). Should agencies choose to inspect temporary microforms, the recommended interval is two years, but as agencies are not bound to that interval, any inspection records should be maintained until they are superseded.

6. GRS 16, item 14e, Management control tracking files.

Current disposition instruction: Destroy when no longer needed.

Revised disposition instruction: Destroy 1 year after report is completed.

This item covers feeder reports, interim reports, and other records created in support of the development of annual and other management control reports. The support records should be needed only for short-term follow-up purposes after the relevant report is finalized.

7. The series title for GRS 17, item 3 was modified to read ''Drawings of Temporary Structures or Objects Not Critical to the Mission of the Agency,'' and ''furniture and equipment'' was added to the description of the item. These changes make the item more accurate and complete, in concert with the NARA instructional guide, ''Managing Cartographic, Aerial Photographic, Architectural, and Engineering Records.''

8. GRS 17, items 3, 4, 6, 8, 9, and 10, Architectural drawings, space assignment plans, and paint plans and samples.

Current disposition instruction: Destroy when no longer needed for administrative purposes.

Revised disposition instruction: Destroy when superseded or after the structure or object has been retired from service.

These temporary architectural drawings, floor and paint plans, and paint samples have utility only as long as they accurately reflect the design and layout of the current structure, or as long as the agency is occupying/using the structure or object.

9. GRS 17, item 5, Contract negotiation drawings.

Current disposition instruction: Destroy when no longer needed for administrative purposes.

Revised disposition instruction: Destroy when the final/as-built drawings are produced.

These are preliminary drawings made during contract negotiations and are not needed after final working/as built drawings have been made.

10. GRS 21, item 2, Personnel photographs.

Current disposition instruction: Destroy when 5 years old or when no longer needed.

Revised disposition instruction: Destroy when 5 years old or when superseded or obsolete, whichever is later.

These identification and passport photographs are needed only for as long as they are current.

11. GRS 21, items 11 and 18, Routine surveillance motion picture and video recordings.

Current disposition instruction: Destroy when no longer needed.

Revised disposition instruction: Destroy when 6 months old.

These are obviously very short-term administrative records. Tapes and films that document illegal or otherwise questionable behavior or circumstances would be made part of an investigative file. NARA checked with several agencies and found a range of 2–120 days in the recommended retention period. NARA is proposing 6 months to accommodate the spectrum. Based on comments received during this comment period, NARA may adjust this retention period to provide a minimum period that will suit the needs of most agencies.

12. GRS 21, item 20, Video recordings of routine meetings and award presentations.

Current disposition instruction: Destroy when no longer needed.

Revised disposition instruction: Destroy when 2 years old.

GRS items covering administrative correspondence and subject files generally have a two-year retention period. As these recordings contain similar information the same retention period would be appropriate.

13. GRS 17, items 2 and 7, Duplicate aerial photographs and architectural models.

GRS 21, items 4, 10, 13, 15, 21, 25, and 27, Duplicate photographs, films,

videos, and sound recordings; recreational films and videos; and library sound recordings.

These items are nonrecord. The aerial photographs (GRS 17/2a and b) are described as ''unannotated duplicate (s)'' and ''unannotated prints when original film negatives exist.'' Architectural models are three-dimensional objects not normally considered documentary records. The audiovisual materials are described as ''duplicate items in excess of record elements required for and films and videos ''acquired from outside sources for personnel entertainment and recreation,'' and ''library sound recordings.'' As such they do not meet the definition of Federal records, and therefore should be removed from the GRS. The disposition of the materials described by these GRS items should be provided in guidance, not records schedules. In order to preserve the numbering of the remaining items in these schedules, these items should be reserved.

Dated: July 31, 1998.

Geraldine N. Phillips,

Acting Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 98–21023 Filed 8–4–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Changes in Subject of Meeting

The National Credit Union Administration Board determined that its business required the deletion of the following item form the previously announced closed meeting (Federal Register, Vol. 63, No. 144, Pages 70320–40321, Tuesday, July 28, 1998) scheduled for Thursday, July 30, 1998.

8. One (1) Personnel Action. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that agency business required that this item be deleted from the closed agenda and that no earlier announcement of this change was possible.

The National Credit Union Administration Board also determined that its business required the addition of the following item to the closed agenda.

9. Human Resources Automated System. Closed pursuant to exemptions (2), (4), and (9) (B).

The Board voted unanimously that agency business required that this item be considered with less than the usual seven days notice, that it be closed to the public, and that no earlier announcement of this change was possible.

The previously announced items were:

1. Administrative Action under Sections 205 and 206 of the Federal Credit Union Act and Part 708 of NCUA's Rules & Regulations. Closed pursuant to exemption (8).
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (4), (7), (8), (9)(A)(ii) and (9)(B).
3. Administrative Action under Section 206 of the FCU Act. Closed pursuant to exemptions (2) and (8).
4. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
5. Corporate Examiner Review Task Force Recommendations. Closed pursuant to exemption (2).
6. Appeal from a Federal Credit Union of the Regional Director's Denial of a Community Charter. Closed pursuant to exemption (8).
7. Three (3) Administrative Actions under Part 745 of NCUA's Rules and Regulations. Closed pursuant to exemption (6).
8. Seven (7) Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–21006 Filed 8–3–98; 10:31am]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: August 13, 1998, 1:00 p.m., Closed Session; August 13, 1998, 2:15 p.m., Open Session.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1225, Arlington, VA 22230.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, August 13, 1998

Closed Session (1:00 p.m.–2:15 p.m.)

—Minutes, May 1998
—Personnel
—Awards and Agreements
—NSF Budget & Long Range Planning

Thursday, August 13, 1998

Open Session (2:15 p.m.–5:30 p.m.)

—Swearing in of NSF Director
—Minutes, May 1998
—Closed Session Items for November 1998
—Chair's Report
—Director's Report
—Briefing—PCAST Environment Report
—Break
—Science and Engineering Indicators (SEI) Plan
—Presentation on International Issues
—Strategies for Human Resource Development
—NSB Strategic Plan
—Report from Committees
—Other Business
—Adjourn

Marta Cehelsky,

Executive Officer.

[FR Doc. 98–21005 Filed 8–3–98; 10:31 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Policy on Conduct Of Adjudicatory Proceedings; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: update.

SUMMARY: The Nuclear Regulatory Commission (Commission) has reassessed and updated its policy on the conduct of adjudicatory proceedings in view of the potential institution of a number of proceedings in the next few years to consider applications to renew reactor operating licenses, to reflect restructuring in the electric utility industry, and to license waste storage facilities.

DATES: This policy statement is effective on August 5, 1998, while comments are being received. Comments are due on or before October 5, 1998.

ADDRESSES: Send written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Rulemakings and Adjudications Staff. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert M. Weisman, Litigation Attorney, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–1696.

Statement of Policy on Conduct of Adjudicatory Proceedings

[CLI–98–12]

I. Introduction

As part of broader efforts to improve the effectiveness of the agency's programs and processes, the Commission has critically reassessed its practices and procedures for conducting adjudicatory proceedings within the framework of its existing Rules of Practice in 10 CFR Part 2, primarily Subpart G. With the potential institution of a number of proceedings in the next few years to consider applications to renew reactor operating licenses, to reflect restructuring in the electric utility industry, and to license waste storage facilities, such assessment is particularly appropriate to ensure that agency proceedings are conducted efficiently and focus on issues germane to the proposed actions under consideration. In its review, the Commission has considered its existing policies and rules governing adjudicatory proceedings, recent experience and criticism of agency proceedings, and innovative techniques used by our own hearing boards and presiding officers and by other tribunals. Although current rules and policies provide means to achieve a prompt and fair resolution of proceedings, the Commission is directing its hearing boards and presiding officers to employ certain measures described in this policy statement to ensure the efficient conduct of proceedings.

The Commission continues to endorse the guidance in its current policy, issued in 1981, on the conduct of adjudicatory proceedings. Statement of Policy on Conduct of Licensing Proceedings, CLI–81–8,13 NRC 452 (May 20, 1981); 46 FR 28533 (May 27, 1981). The 1981 policy statement provided guidance to the Atomic Safety and Licensing Boards (licensing boards) on the use of tools, such as the establishment and adherence to reasonable schedules and discovery management, intended to reduce the time for completing licensing proceedings while ensuring that hearings were fair and produced adequate records. Now, as then, the Commission's objectives are to provide a fair hearing process, to avoid unnecessary delays in the NRC's review and hearing processes, and to produce an informed adjudicatory record that supports agency decision making on matters related to the NRC's responsibilities for protecting public health and safety, the common defense and security, and the environment. In this context, the opportunity for hearing should be a meaningful one that focuses on genuine issues and real disputes regarding agency actions subject to adjudication. By the same token, however, applicants for a license are also entitled to a prompt resolution of disputes concerning their applications.

The Commission emphasizes its expectation that the boards will enforce adherence to the hearing procedures set forth in the Commission's Rules of Practice in 10 CFR Part 2, as interpreted by the Commission. In addition, the Commission has identified certain specific approaches for its boards to consider implementing in individual proceedings, if appropriate, to reduce the time for completing licensing and other proceedings. The measures suggested in this policy statement can be accomplished within the framework of the Commission's existing Rules of Practice. The Commission may consider further changes to the Rules of Practice as appropriate to enable additional improvements to the adjudicatory process.

II. Specific Guidance

Current adjudicatory procedures and policies provide a latitude to the Commission, its licensing boards and presiding officers to instill discipline in the hearing process and ensure a prompt yet fair resolution of contested issues in adjudicatory proceedings. In the 1981 policy statement, the Commission encouraged licensing boards to use a number of techniques for effective case management including: setting reasonable schedules for proceedings; consolidating parties; encouraging negotiation and settlement conferences; carefully managing and supervising discovery; issuing timely rulings on prehearing matters; requiring trial briefs, pre-filed testimony, and cross-examination plans; and issuing initial decisions as soon as practicable after the parties file proposed findings of fact and conclusions of law. Licensing boards and presiding officers in current NRC adjudications use many of these techniques, and should continue to do so.

As set forth below, the Commission has identified several of these techniques, as applied in the context of the current Rules of Practice in 10 CFR Part 2, as well as variations in procedure permitted under the current Rules of Practice that licensing boards should apply to proceedings. The Commission also intends to exercise its inherent supervisory authority, including its power to assume part or all of the functions of the presiding officer in a given adjudication, as appropriate in the context of a particular proceeding. See, e.g., Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), CLI–90–3, 31 NRC 219, 229 (1990). The Commission intends to promptly respond to adjudicatory matters placed before it, and such matters should ordinarily take priority over other actions before the Commissioners.

1. Hearing Schedules

The Commission expects licensing boards to establish schedules for promptly deciding the issues before them, with due regard to the complexity of the contested issues and the interests of the parties. The Commission's regulations in 10 CFR 2.718 provide licensing boards all powers necessary to regulate the course of proceedings, including the authority to set schedules, resolve discovery disputes, and take other action appropriate to avoid delay. Powers granted under § 2.718 are sufficient for licensing boards to control the supplementation of petitions for leave to intervene or requests for hearing, the filing of contentions, discovery, dispositive motions, hearings, and the submission of findings of fact and conclusions of law.

Many provisions in Part 2 establish schedules for various filings, which can be varied ''as otherwise ordered by the presiding officer.'' Boards should exercise their authority under these options and 10 CFR 2.718 to shorten the filing and response times set forth in the regulations to the extent practical in a specific proceeding. In addition, where such latitude is not explicitly afforded, as well as in instances in which sequential (rather than simultaneous) filings are provided for, boards should explore with the parties all reasonable approaches to reduce response times and to provide for simultaneous filing of documents.

Although current regulations do not specifically address service by electronic means, licensing boards, as they have in other proceedings, should establish procedures for electronic filing with appropriate filing deadlines, unless doing so would significantly deprive a party of an opportunity to participate meaningfully in the proceeding. Other expedited forms of service of documents in proceedings may also be appropriate. The Commission encourages the licensing boards to consider the use of new technologies to expedite proceedings as those technologies become available.

Boards should forego the use of motions for summary disposition, except upon a written finding that such

a motion will likely substantially reduce the number of issues to be decided, or otherwise expedite the proceeding. In addition, any evidentiary hearing should not commence before completion of the staff's Safety Evaluation Report (SER) or Final Environmental Statement (FES) regarding an application, unless the presiding officer finds that beginning earlier, e.g., by starting the hearing with respect to safety issues prior to issuance of the SER, will indeed expedite the proceeding, taking into account the effect of going forward on the staff's ability to complete its evaluations in a timely manner. Boards are strongly encouraged to expedite the issuance of interlocutory rulings. The Commission further strongly encourages presiding officers to issue decisions within 60 days after the parties file the last pleadings permitted by the board's schedule for the proceeding.

Appointment of additional presiding officers or licensing boards to preside over discrete issues simultaneously in a proceeding has the potential to expedite the process, and the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel (ASLBP) should consider this measure under appropriate circumstances. In doing so, however, the Commission expects the Chief Administrative Judge to exercise the authority to establish multiple boards only if: (1) the proceeding involves discrete and severable issues; (2) the issues can be more expeditiously handled by multiple boards than by a single board; and (3) the multiple boards can conduct the proceeding in a manner that will not unduly burden the parties. Private Fuel Storage, L.L.C. (Private Fuel Storage Facility), CLI–98–7, 47 NRC ____ (1998).

The Commission itself may set milestones for the completion of proceedings. If the Commission sets milestones in a particular proceeding and the board determines that any single milestone could be missed by more than 30 days, the licensing board must promptly so inform the Commission in writing. The board should explain why the milestone cannot be met and what measures the board will take insofar as is possible to restore the proceeding to the overall schedule.

2. Parties' Obligations

Although the Commission expects its licensing boards to set and adhere to reasonable schedules for the various steps in the hearing process, the Commission recognizes that the boards will be unable to achieve the objectives of this policy statement unless the parties satisfy their obligations. The parties to a proceeding, therefore, are expected to adhere to the time frames specified in the Rules of Practice in 10 CFR Part 2 for filing and the scheduling orders in the proceeding. As set forth in the 1981 policy statement, the licensing boards are expected to take appropriate actions to enforce compliance with these schedules. The Commission, of course, recognizes that the boards may grant extensions of time under some circumstances, but this should be done only when warranted by unavoidable and extreme circumstances.

Parties are also obligated in their filings before the board and the Commission to ensure that their arguments and assertions are supported by appropriate and accurate references to legal authority and factual basis, including, as appropriate, citation to the record. Failure to do so may result in material being stricken from the record or, in extreme circumstances, in a party being dismissed.

3. Contentions

Currently, in proceedings governed by the provisions of Subpart G, 10 CFR 2.714(b)(2)(iii) requires that a petitioner for intervention shall provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] The Commission has stated that a board may appropriately view a petitioner's support for its contention in a light that is favorable to the petitioner, but the board cannot do so by ignoring the requirements set forth in § 2.714(b)(2). Arizona Public Service Co. (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI–91–12, 34 NRC 149, 155 (1991). The Commission re-emphasizes that licensing boards should continue to require adherence to § 2.714(b)(2), and that the burden of coming forward with admissible contentions is on their proponent. A contention's proponent, not the licensing board, is responsible for formulating the contention and providing the necessary information to satisfy the basis requirement for the admission of contentions in 10 CFR 2.714(b)(2). The scope of a proceeding, and, as a consequence, the scope of contentions that may be admitted, is limited by the nature of the application and pertinent Commission regulations. For example, with respect to license renewal, under the governing regulations in 10 CFR Part 54, the review of license renewal applications is confined to matters relevant to the extended period of operation requested by the applicant. The safety review is limited to the plant systems, structures, and components (as delineated in 10 CFR 54.4) that will require an aging management review for the period of extended operation or are subject to an evaluation of time-limited aging analyses. See 10 CFR 54.21(a) and (c), 54.29, and 54.30. In addition, the review of environmental issues is limited by rule by the generic findings in NUREG–1427, ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants.'' See 10 CFR 55.71(d) and 51.95(c).

Under the Commission's Rules of Practice, a licensing board may consider matters on its motion only where it finds that a serious safety, environmental, or common defense and security matter exists. 10 CFR 2.760a. Such authority is to be exercised only in extraordinary circumstances. If a board decides to raise matters on its own initiative, a copy of its ruling, setting forth in general terms its reasons, must be transmitted to the Commission and the General Counsel. Texas Utilities Generating Co. (Comanche Peak Steam Electric Station, Units 1 and 2), CLI–81–24, 14 NRC 614 (1981). The board may not proceed further with sua sponte issues absent the Commission's approval. The scope of a particular proceeding is limited to the scope of the admitted contentions and any issues the Commission authorizes the board to raise sua sponte.

Currently, 10 CFR 2.714a allows a party to appeal a ruling on contentions only if (a) the order wholly denies a petition for leave to intervene (i.e., the order denies the petitioner's standing or the admission of all of a petitioner's contentions) or (b) a party other than the petitioner alleges that a petition for leave to intervene or a request for a hearing should have been wholly denied. Although the regulation reflects the Commission's general policy to minimize interlocutory review, under this practice, some novel issues that could benefit from early Commission review will not be presented to the Commission. For example, matters of first impression involving interpretation of 10 CFR Part 54 may arise as the staff and licensing board begin considering applications for renewal of power reactor operating licenses. Accordingly, the Commission encourages the licensing boards to refer rulings or certify questions on proposed contentions involving novel issues to

[1] ''[A]t the contention filing stage[,] the factual support necessary to show that a genuine dispute exists need not be in affidavit or formal evidentiary form and need not be of the quality necessary to withstand a summary disposition motion.'' Rules of Practice for Domestic Licensing Proceedings—Procedural Changes in the Hearing Process, Final Rule, 54 FR 33168, 33171 (Aug. 11, 1989).

the Commission in accordance with 10 CFR 2.730(f) early in the proceeding. In addition, boards are encouraged to certify novel legal or policy questions related to admitted issues to the Commission as early as possible in the proceeding. The Commission may also exercise its authority to direct certification of such particular questions under 10 CFR 2.718(i). The Commission, however, will evaluate any matter put before it to ensure that interlocutory review is warranted.

4. Discovery Management

Efficient management of the pre-trial discovery process is critical to the overall progress of a proceeding. Because a great deal of information on a particular application is routinely placed in the agency's public document rooms, Commission regulations already limit discovery against the staff. See, e.g.,10 CFR 2.720(h), 2.744. Under the existing practice, however, the staff frequently agrees to discovery without waiving its rights to object to discovery under the rules, and refers any discovery requests it finds objectionable to the board for resolution. This practice remains acceptable.

Application in a particular case of procedures similar to provisions in the 1993 amendments to Rule 26 of the Federal Rules of Civil Procedure or informal discovery can improve the efficiency of the discovery process among other parties. The 1993 amendments to Rule 26 provide, in part, that a party shall provide certain information to other parties without waiting for a discovery request. This information includes the names and addresses, if known, of individuals likely to have discoverable information relevant to disputed facts and copies or descriptions, including location, of all documents or tangible things in the possession or control of the party that are relevant to the disputed facts. The Commission expects the licensing boards to order similar disclosure (and pertinent updates) if appropriate in the circumstances of individual proceedings. With regard to the staff, such orders shall provide only that the staff identify the witnesses whose testimony the staff intends to present at hearing. The licensing boards should also consider requiring the parties to specify the issues for which discovery is necessary, if this may narrow the issues requiring discovery.

Upon the board's completion of rulings on contentions, the staff will establish a case file containing the application and any amendments to it, and, as relevant to the application, any NRC report and any correspondence between the applicant and the NRC. Such a case file should be treated in the same manner as a hearing file established pursuant to 10 CFR 2.1231. Accordingly, the staff should make the case file available to all parties and should periodically update it.

Except for establishment of the case file, generally the licensing board should suspend discovery against the staff until the staff issues its review documents regarding the application. Unless the presiding officer has found that starting discovery against the staff before the staff's review documents are issued will expedite the hearing, discovery against the staff on safety issues may commence upon issuance of the SER, and discovery on environmental issues upon issuance of the FES. Upon issuance of an SER or FES regarding an application, and consistent with such limitations as may be appropriate to protect proprietary or other properly withheld information, the staff should update the case file to include the SER and FES and any supporting documents relied upon in the SER or FES not already included in the file.

The foregoing procedures should allow the boards to set reasonable bounds and schedules for any remaining discovery, e.g., by limiting the number of rounds of interrogatories or depositions or the time for completion of discovery, and thereby reduce the time spent in the prehearing stage of the hearing process. In particular, the board should allow only a single round of discovery regarding admitted contentions related to the SER or the FES, and the discovery respective to each document should commence shortly after its issuance.

III. Conclusion

The Commission reiterates its long-standing commitment to the expeditious completion of adjudicatory proceedings while still ensuring that hearings are fair and produce an adequate record for decision. The Commission intends to monitor its proceedings to ensure that they are being concluded in a fair and timely fashion. The Commission will take action in individual proceedings, as appropriate, to provide guidance to the boards and parties and to decide issues in the interest of a prompt and effective resolution of the matters set for adjudication.

Dated at Rockville, Maryland, this 28th day of July, 1998.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Assistant Secretary of the Commission.

[FR Doc. 98–20781 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection and solicitation of public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. Title of the information collection: Proposed Rule, Conformance to National Policies for Access to and Protection of Classified Information, 10 CFR Parts 10, 11, 25, and 95.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC regulated facilities and other organizations requiring access to NRC classified information or special nuclear material.

6. An estimate of the number of responses:

10 CFR Part 10—0
10 CFR Part 11—0
10 CFR Part 25—0
10 CFR Part 95—14
NRC Form 237—(12)

7. The estimated number of annual respondents:

10 CFR Part 10—0
10 CFR Part 11—0
10 CFR Part 25—0
10 CFR Part 95—8
NRC Form 237—4

8. An estimate of the total number of hours needed to complete the requirement or request:

10 CFR Part 10—0
10 CFR Part 11—0
10 CFR Part 25—0
10 CFR Part 95—144
NRC Form 237—(2.4)

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Applicable.

10. Abstract:—The Nuclear Regulatory Commission is amending 10 CFR Parts 10, 11, 25 and 95 to conform the requirements for the protection of and access to classified information to new national security policy documents, to conform the addressee for some reporting requirements to reflect the results of a reorganization within the NRC Office of Administration, and to reflect the reassignment of some responsibilities from the Executive Director for Operations to the Deputy Executive Director for Management Services. The proposed mandatory requirements are necessary to ensure that classified information in the possession of NRC licensees and others under the NRC's regulatory requirements is protected in accordance with current national policies. The change in addressee is necessary to ensure proper receipt of reports from regulated entities, and the change in responsibilities is necessary to accurately reflect which NRC official is responsible for certain decisions.

Submit, by September 4, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. You may also review the submittal and provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). From the home page, select ''Rulemaking'' from the tool bar. The interactive rulemaking website can then be accessed by selecting ''Rulemaking Forum.'' This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Comments and questions should be directed to the OMB reviewer by September 4, 1998:

Erik Godwin, Office of Information and Regulatory Affairs (3150–0047, and 3150–0050) NEOB–10202 Office of Management and Budget, Washington, D.C. 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 31st day of 1998.

For the Nuclear Regulatory Commission.

Keith R. Shaw,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–20882 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Houston Lighting & Power Company and City Public and Service Board of San Antonio, et al.; Notice of Consideration of Approval of Application Regarding Proposed Merger

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order under 10 CFR 50.80, of an application concerning a proposed merger between Central and South West Corporation (CSW) and American Electric Power Company, Inc. (AEP). CSW is the parent holding company of Central Power and Light Company (CPL). Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, and STP Nuclear Operating Company are holders of Facility Operating Licenses Nos. NPF–76 and NPF–80, issued on March 22, 1988, and March 28, 1989, respectively. Facility Operating Licenses Nos. NPF–76 and NPF–80 authorize the holders to possess the South Texas Project, Units 1 and 2 (STP), and authorize STP Nuclear Operating Company to use and operate STP in accordance with the procedures and limitations set forth in the operating licenses. By application dated June 16, 1998, submitted under cover of a letter dated June 19, 1998, as supplemented by letter dated June 23, 1998, and enclosures thereto, the Commission was informed that CSW and AEP have entered into a merger agreement under which CSW would become a wholly-owned subsidiary of AEP with CPL remaining a wholly-owned subsidiary of CSW. The application seeks approval of the indirect transfer of control of the interest held by CPL in the STP operating licenses to AEP to the extent effected by the proposed merger.

According to the application, the merger will have no adverse effect on either the technical management or operation of STP since STP Nuclear Operating Company, responsible for the operation and maintenance of STP, is not involved in the merger. Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, and STP Nuclear Operating Company will remain licensees responsible for their possessory interests and related obligations. No direct transfer of the license will result from the merger.

Pursuant to 10 CFR 50.80, the Commission may consent to the transfer of control of a license after notice to interested persons. Such consent is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the application from CPL dated June 16, 1998, submitted under cover of a letter dated June 19, 1998, from Shaw, Pittman, Potts, and Trowbridge, counsel for CPL, and supplemental letter dated June 23, 1998, and enclosures thereto. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 30th day of July 1998.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–20881 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Notice of Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued

Amendment No. 178 to Facility Operating License No. NPF–14 and No. 151 to Facility Operating License No. NPF–22 issued to Pennsylvania Power and Light Company (PP&L, the licensee), which revised operating license and Appendices A and C to the operating license for Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendment implements a full conversion of the SSES Technical Specifications (TS) to a set of TS based upon NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4,'' Revision 1, dated April 1995 and grants requests for the following additional ITS items: (a) April 8, 1998 (63 FR 17227; (b) April 8, 1998 (63 FR 17232); (c) April 8, 1998 (63 FR 17227); (d) April 8, 1998 (63 FR 17231); (e) April 8, 1998 (63 FR 17231); (f) April 8, 1998 (63 FR 17230); (g) April 8, 1998 (63 FR 17233); (h) April 8, 1998 (63 FR 17229); (i) April 8, 1998 (63 FR 17229); (j) April 8, 1998 (63 FR 17230); (k) April 8, 1998 (63 FR 17232); (l) April 8, 1998 (63 FR 17234); (m) April 8, 1998 (63 FR 17233); (n) April 27, 1998 (63 FR 20664); (o) April 27, 1998 (63 FR 20669); (p) April 27, 1998 (63 FR 20665); (q) April 27, 1998 (63 FR 20667).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on November 5, 1996 (61 FR 36972). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (63 FR 39114).

For further details with respect to the action see (1) the application for amendment dated August 1, 1996, as supplemented by letters dated November 26, 1997, January 6, March 2, April 24, and June 18, 1998, (2) Amendment No. 178 to Facility Operating License No. NPF–14 and Amendment No. 151 to Facility Operating License No. NPF–22, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 30th day of July 1998.

For the Nuclear Regulatory Commission.

Victor Nerses,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–20883 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 103rd meeting on August 27–28, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Thursday, August 27, 1998—8:30 A.M. until 6:00 P.M.

Friday, August 28, 1998—8:30 A.M. until 4:00 P.M.

A. *Development of a Standard Review Plan for Decommissioning*—The Committee will continue monitoring progress on this subject and will be briefed on recent staff activities related to parameter selection for the D and D code and the development of a default table.

B. *Meeting with NRC's Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards*—The Committee will meet with the Director to discuss recent developments within the division such as developments at the Yucca Mountain project, rules and guidance under development, available resources, and other items of mutual interest.

C. *Preparation of ACNW Reports*—The Committee will discuss planned reports on the following topics: the recent working group on the near-field environment and the performance of the engineered barrier system for the proposed Yucca Mountain repository; potential regulations for licensing the Yucca Mountain repository; proposed importance measures for evaluating nuclear waste repository performance; issues related to the regulatory guides and standard review plan for decommissioning; and other topics discussed during this and previous meetings as the need arises.

D. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

E. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 2, 1997 (62 FR 46382). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Chief, Nuclear Waste Branch, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch

(telephone 301/415–6366), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

The revised ACNW meeting dates for the remainder of Calendar Year 1998 are provided below:

ACNW meeting No.	1998 ACNW meeting date
104th	October 19–22, 1998 (Amargosa Valley, NV and Las Vegas, NV).
105th	December 15–17, 1998 (Rockville, MD).

Dated: July 30, 1998.

John C. Hoyle,

Acting Advisory Committee Management Officer.

[FR Doc. 98–20879 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on September 1, 1998, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows: Tuesday, September 1, 1998—1:30 p.m.—3:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: July 29, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch

[FR Doc. 98–20880 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 3, 10, 17, and 24, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 3

Thursday, August 6

10:00 a.m. Research—A Look in the Future (Public Meeting) (Contact: Lloyd Donnelly, 301–415–5828).

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

*Wednesday, August 12**

3:30 p.m. Affirmation Session (Public Meeting) (If needed)

Week of August 17—Tentative

Wednesday, August 19

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of August 24—Tentative

Tuesday, August 25

10:00 a.m. Briefing on 10 CFR Part 70—Proposed Rulemaking. ''Revised Requirements for the Domestic Licensing of Special Nuclear Material (Public Meeting) (Contact: Elizabeth Ten Eyck, 301–415–7212)

Wednesday, August 26

2:00 p.m. Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting) (Contact: Tom King, 301–415–5790)

3:00 p.m. Affirmation Session (Public Meeting) (if needed)

***Please note:** The Commission meeting, ''Briefing on PRA Implementation Plan,'' previously scheduled for 8/12, has been rescheduled. The new date will probably be in early September.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary. Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wwh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–21022 Filed 8–3–98; 12:28 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice; Application and Amendments to Facility Operating Licenses Involving No Significant Hazards Consideration

On July 29, 1998, the **Federal Register** published a Biweekly Notice of Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations. On page 40552, the first column, the fourth paragraph, where it reads, ''By

August 14, 1998,'' should have read ''By August 28, 1998.''

Dated at Rockville, Maryland, this 29th day of July 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/V, Office of Nuclear Reactor Regulation.

[FR Doc. 98–20884 Filed 8–4–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (ImmuCell Corporation, Common Stock, $.10 Par Value; Common Stock Purchase Rights) File No. 1–12934

July 30, 1998.

ImmuCell Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (collectively ''Securities'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Common Stock, $.10 Par Value, of the Company (''Common Stock''), currently is listed for trading on the Nasdaq SmallCap Market and the BSE. The Common Stock Purchase Rights are transferred with, and only with, the Common Stock and may not be separately transferred unless certain triggering events occur in the future.

The Company has complied with the instructions of the BSE by filing with the Exchange a letter signed by the Company's President and CEO and the Company's Chief Financial Officer, Treasurer and Secretary authorizing the withdrawal of its Securities from listing on the BSE and setting forth in detail the reasons for the proposed withdrawal and the facts in support thereof.

In making the decision to withdraw its Securities from listing and registration on the BSE, the Company considered the costs and expenses attendant on maintaining the dual listing of its Securities on the Nasdaq SmallCal Market and the BSE. Given the extremely low trading volume experiences on the BSE over the prior several years, the Company does not see any advantage in maintaining the dual listing of its Securities and believes that the costs outweigh the benefits of maintaining the listing on the BSE.

By letter dated July 6, 1998, the Exchange informed the Company that it would not object to the withdrawal of the Company's Securities from listing and registration on the BSE.

The withdrawal from listing of the Company's Securities from the BSE shall have no effect upon the continued listing of such Securities on the Nasdaq SmallCap Market.

By reason of Section 12(g) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the Nasdaq SmallCap Market.

Any interested person may, on or before August 20, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–20869 Filed 8–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23367; 812–10530]

UIH Latin America, Inc.; Notice of Application

July 30, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 3(b)(2) of the Investment Company Act of 1940 (the ''Act'').

Summary of Application: Applicant requests an order declaring that it is engaged primarily in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

FILING DATES: The application was filed on February 25, 1997, and amended on August 7, 1997, and on July 27, 1998.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 24, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, UIH Latin America, Inc., 4643 South Ulster St., Suite 1300, Denver, CO 80237.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942–0562, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicant's Representations

1. Applicant, a Colorado corporation formed in 1995, is a wholly-owned subsidiary of United International Holdings, Inc. (''UIHI''), a Delaware corporation. UIHI provides multi-channel television and other telecommunication services outside the U.S. and has ownership interests in multi-channel television systems in operation or construction in 25 countries.

2. Applicant currently has two majority-owned subsidiaries, each of which is engaged in the business of owning and operating multi-channel television and telecommunications businesses in Peru, and one majority-owned subsidiary providing programming to Latin America. Applicant also has several minority-owned subsidiaries, each of which is engaged in the business of owning and operating multi-channel television and telecommunications businesses in Brazil, Chile and Mexico (''Controlled Companies'').

3. The Controlled Companies include the following: TV Cabo Comunicacoes de Jundiai, in which applicant, through

a wholly-owned subsidiary, owns a 46% interest; TV Show Brasil S.A. (''TVSB''), in which applicant, through a wholly-owned subsidiary, owns a 45% interest; VTR Hipercable S.A. (''Hipercable''), in which applicant, through a wholly-owned subsidiary, owns a 34% interest; and six operating subsidiaries of Megapo Comunicaciones de Mexico, S.A. de C.V., in each of which applicant, through a wholly-owned subsidiary, owns a 49% interest. Applicant has exercised an option to obtain the remaining 55% interest in TVSB and consummation of the transaction is pending regulatory approval. Applicant also will have an option to purchase new Hipercable shares to increase its ownership to 50%.

4. Applicant states that it is a holding company that conducts its multi-channel television and related communications operations through wholly-owned and majority-owned subsidiaries and Controlled Companies. Applicant further states that, while it always intends to purchase a majority voting interest when acquiring an equity interest in a new television or telecommunications system, it is not always possible or feasible because many Latin American countries prohibit United States owners such as applicant from acquiring a direct majority interest in cable, telecommunication or programming companies.

5. Applicant states that it does not seek passive investments. To ensure that applicant has active participation in the management of the companies in which it does not own a majority voting interest, applicant enters into shareholder or other voting agreements and often requires amendments to the governing documents of the company. Applicant states that these agreements and amendments establish applicant's right to appoint a specified number of directors to the company's board of directors and require supermajority approval of shareholders or the board for most significant decisions affecting the company. Applicant asserts that under these provisions applicant controls the direction and development of the company and has veto power over most major decisions. In addition, under management or technical assistance agreements with the company, applicant's personnel typically manage the design, construction and operation of the company's operating system and are responsible for the selection and training of key personnel of the company. Applicant assets that it has these arrangements in place with respect to each of the Controlled Companies.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it ''is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per cent of the value of an issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.'' Section 3(a)(2) defines ''investment securities'' to include all securities except, in part, securities issued by majority-owned subsidiaries of the owner which are not investment companies.

2. Applicant states that it currently meets the definition of investment company under section 3(a)(1)(C) of the Act because approximately 81% of its total assets are interests in the Controlled Companies that are ''investment securities'' within the meaning of section 3(a)(2).

3. Section 3(b)(2) provides that, notwithstanding section 3(a)(1)(C) of the Act, the SEC may issue an order declaring an issuer to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or controlled companies conducting similar types of businesses. Applicant requests an order under section 3(b)(2) declaring that it is primarily engaged, through majority-owned subsidiaries and Controlled Companies, in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

4. To determine whether applicant is primarily engaged in a non-investment company business under section 3(b)(2), the SEC considers the following factors: (a) applicant's historical development; (b) its public representations or policy; (c) the activities of its officers and directors; (d) the nature of its present assets; and (e) the sources of its present income.[1]

(a) *Historical Development.* Applicant states that it was formed to consolidate UIHI's Latin American cable and telecommunications businesses under one corporation. Since its incorporation, applicant has been engaged in the television and telecommunications business in Latin American through its wholly-owned and majority-owned subsidiaries and Controlled Companies.

(b) *Public Representations of Policy.* Applicant states that it has never held itself out as an investment company. Applicant asserts that it consistently has held itself out as being in the business of acquiring, developing, owning and operating cable and telecommunications businesses outside the United States.

(c) *Activities of Officers and Directors.* Applicant states that its officers spend the majority of their time operating applicant's subsidiaries, including constructing distribution networks, hiring staff, planning and implementing budgets, and designing, acquiring, operating, and monitoring subscriber management and information systems. Of applicant's officers, only the Chief Financial Officer spends any time (approximately 10%) overseeing the management of applicant's funds and temporarily investing those funds pending their use in applicant's business.

(d) *Nature of Assets.* As of May 31, 1998, applicant has total assets of apprxoimately $259,232,000, 10.2% of which were attributable to its majority-owned subsidiaries, 81% of which were attributable to its Controlled Companies, and 8.7% of which were attributable to its other assets (such as capitalized development costs, cash, short-term investments and accounts receivables).

(e) *Sources of Income.* For the twelve month period ending May 31, 1998, applicant experienced net losses that were attributable 27% to majority-owned subsidiaries, 17% to Controlled Companies, and 56% to applicant's operating expenses (in the form of interest payments on bridge financing to fund acquisitions of wholly-owned and majority-owned operating subsidiaries, and overhead costs).

5. Applicant thus asserts that it meets the requirements for an order under section 3(b)(2) of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–20872 Filed 8–4–98; 8:45 am]

BILLING CODE 8010–01–M

[1] *See Tonopah Mining Company of Nevada,* 26 S.E.C. 426, 427 (1947).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40274; File No. SR–CSE–98–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Cincinnati Stock Exchange, Inc. To Amend Existing and to Institute New Trading Fees

July 29, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 1998, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 15, 1998, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3] 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 Exchange proposes to amend CSE Rule 11.10, which contains the Exchange's schedule of fees, to more equitably distribute technology enhancement costs amoung its members. The text of the proposed rule change is available at the Office of the Secretary, CSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CSE 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 Exchange is revising its fee structure, delineated in CSE Rule 11.10, to more equitably distribute technology costs among members. The CSE has incurred significant expense in enhancing its computer systems, including a migration to the TCP/IP protocol. The Exchange believes that these enhancements will improve the CSE's electronic trading environment and provide members with improved services. The new fee structure will partially offset these expenses and is intended to apportion the enhancement costs fairly.

Specifically, the proposed rule change will increase the Designated Dealer Book fee from $15.00 to $25.00 per issue. This is a per issue fee paid by specialists to make markets on the CSE. By increasing the fee, the Exchange intends partially to offset increased technology costs by charging specialists who enjoy the benefits of this new technology on an issue by issue basis. To create an incentive for Designated Dealer to increase the number of issues traded on the Exchange, however, this fee will be lowered to $5.00 per issue where a Designated Dealer is the sole specialist. Moreover, the fee will decrease as a Designated Dealers increases the number of issues it trades on the Exchange.

The proposed rule change will also alter the Exchange's port fee. In light of the Exchange's migration to the TCP/IP protocol, the proposed rule change will define the term ''Port'' as a TCP/IP address for purposes of the CSE's port charge. This charge will change from $100.00 to $200.00 per month to partially offset the software and hardware expenses incurred by the Exchange in the conversion.

In addition, the CSE will add a new ''technology fee'' of $300.000 per month applicable to all members. As the nation's only entirely electronic exchange, the CSE devotes significant resources to improving and enhancing its computerized environment. This fee will help offset expenses incurred by the Exchange in implementing new and improved technology, including migration to the TCP/IP protocol.

Finally, the proposed rule change will increase the Exchange's transaction fee caps, that is, the level above which a member's transactions are no longer charged, for both agency and preferenced transactions, from 1,750,001 shares per day to 2,000,001 shares per day and will eliminate the $3.75 cap on non-preferenced Designated Dealer activity. Like other fee changes, additional revenue from these charges will partially offset the CSE's technology expenses.

2. Basis

The proposed rule change is consistent with section 6(b) of the Act[4] in general, and furthers the objectives of section 6(b)(5)[5] in particular in that it is designated to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. It is also consistent with section 6(b)(4)[6] in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by apportioning technology costs more fairly.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective on filing, pursuant to section 19(b)(3)(A) of the Act[7] and Rule 19b–4(e)(2)[8] thereunder because it revises member fees. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

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 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

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

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 corrected typographical errors in the filing. Letter from Adam W. Gurwitz, Vice President Legal, CSE to Kelly McCormick, Attorney, Division of Market Regulation. Commission, dated July 14, 1998.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(e)(2).

[9] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 CSE. All submissions should refer to File No. SR–CSE–98–01 and should be submitted by August 26, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–20871 Filed 8–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[(Release No. 34–40278; File No. SR–NYSE–98–14)]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Margin Requirements

July 29, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 28, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 431, ''Margin Requirements,'' to revise the margin requirements for non-equity securities and to expand the types of non-equity securities eligible for exempt account treatment. Specifically, the NYSE proposes to revise NYSE Rule 431 to: (1) provide that the margin requirement for highly rated foreign sovereign debt securities will be the amounts specified currently in NYSE Rule 431(e)(2)(A) for U.S. debt securities,[2] (2) reduce the margin for exempted securities other than U.S. debt securities from 15% to 7% of the current market value (NYSE Rule 431(e)(2)(B)); and (3) reduce the margin for investment grade debt securities from 20% to 10% of the current market value (NYSE Rule 431(e)(2)(C)(i)). The margin for all other listed non-equity securities, and for all other marginable non-equity securities, will remain at 20% of the current market value or 7% of the principal amount, whichever is greater. In addition, the NYSE proposes several changes with regard to exempt accounts. Specifically, the NYSE proposes to: (1) modify the definition of ''exempt account;'' (2) require no margin for exempt account transactions involving mortgage-related securities and major foreign sovereign debt securities (NYSE Rule 431(e)(2)(F)); and (3) require margin equal to 0.5% of current market value for exempt account transactions involving highly rated foreign debt securities and margin equal to 3% of current market value for exempt account transactions involving all other investment grade debt securities (proposed NYSE Rule 431(e)(2)(G)).[3] The NYSE also proposes to adopt NYSE Rule 431(e)(2)(H), which will limit the amount of uncollected marked to market losses which may be deducted from a member organization's net capital.

Copies of the proposed rule change are available at the NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, the 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 NYSE proposes to amend NYSE Rule 431 to revise the margin requirements for non-equity securities and to expand the types of non-equity securities eligible for exempt account treatment. According to the NYSE, Regulation T of the Board of Governors of the Federal Reserve System (''FRB''), which establishes initial margin requirements, currently provides that transactions in non-equity securities are subject to ''good faith'' requirements when done in a margin account and have no FRB margin requirements when done in a ''good faith'' account. Therefore, the maintenance margin requirements of NYSE Rule 431 are particularly important because they provide ongoing safety and soundness levels for positions maintained in customers' accounts.

The NYSE proposes to revise NYSE Rule 431 to: (1) provide that the margin for highly rated foreign sovereign debt securities[4] will equal the margin required for U.S. debt secuties under NYSE Rule 431(e)(2)(A);[5] (2) reduce the margin for exempted securities other than U.S. debt securities from 15% to 7% of the current market value (NYSE Rule 431(e)(2)(B)); and (3) reduce the margin for investment grade debt securities[6] from 20% to 10% of the

[10] 17 CFR 200.30–3(a)(12).

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

[2] The margin required for U.S. government obligations under NYSE Rule 431(e)(2)(A) varies according to the length of time to maturity.

[3] The text of proposed NYSE Rule 431(e)(2)(G)(i) indicates that the required margin for exempt account transactions involving highly rated foreign sovereign debt will be .5% of current market value. However, in the portion of the filing describing the proposed rule change, the NYSE indicates that the proposed margin level for exempt account transactions involving highly rated foreign sovereign debt will be .05% of current market value. The NYSE clarified that the proposed margin requirement for these securities is .5% of current market value. Telephone conversation between Donald van Weezel, Managing Director, Regulatory Affairs, NYSE, and Yvonne Fraticelli, Attorney, Division of Market Regulation, Commission, on May 20, 1998.

[4] The NYSE's proposal defines ''highly rated foreign sovereign debt securities'' as debt securities (including major foreign sovereign debt securities) issued or guaranteed by the government of a foreign country, its provinces, states or cities, or a supranational entity, if at the time of the extension of credit [regarding] (sic) the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top two rating categories by at least one nationally recognized statistical rating organization. *See* proposed NYSE Rule 431(a)(9).

[5] NYSE Rule 431(e)(2)(A) establishes the following margin requirements for U.S. government debt: (1) 1% of the current market value for obligations with less than one year to maturity; (2) 2% of the current market value for obligations with one year but less than three years to maturity; (3) 3% of the current market value for obligations with three years but less than five years to maturity; (4) 4% of the current market value for obligations with five years but less ten years to maturity; (5) 5% of the current market value for obligations with ten years but less than 20 years to maturity; and (6) 6% of the current market value for obligations with 20 years or more to maturity.

[6] The proposal defines *investment grade debt securities* as any debt securities (including those issued by the government of a foreign country, its provinces, states or cities, or a supranational entity), if at the time of the extension of credit [regarding] (sic) the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor

current market value (NYSE Rule 431(e)(2)(C)(i)). The margin for all other listed non-equity securities,[7] and for all other marginable non-equity securities [8] will remain at 20% of the current market value or 7% of the principal amount, whichever is greater (NYSE Rule 431(e)(2)(C)(ii).

The NYSE states that the proposed amendments to NYSE Rule 431 will provide for margin requirements on non-equity securities commensurate with the risks associated with positions in such securities held by customers. According to the NYSE, the proposed margin percentages for retail customers for investment grade debt securities and municipal securities will be comparable to the highest haircut percentages provided in the SEC's net capital rule [9] for proprietary positions in similar securities.

The NYSE notes that NYSE Rule 431 currently contains margin requirements specifically addressing transactions with exempt accounts involving exempt securities and mortgage-related securities. These requirements are lower than those applicable to transactions in such securities with accounts other than exempt accounts. In NYSE Rule 431(a)(13), the NYSE proposes to define ''exempt account'' to mean a member organization, non-member broker-dealer, ''designated account,'' or any person having a net worth of at least $40 million. The proposal increases the financial threshold for a customer to be considered an exempt account from $16 to $40 million. The NYSE also proposes to revise its definition of designated account.[10]

In proposed NYSE Rule 431(e)(2)(G), ''Transactions with Exempt Accounts Involving Highly Rated Foreign Sovereign Debt Securities and Investment Grade Debt Securities,'' the NYSE proposes to provide lower margin requirements for exempt account transactions in highly rated foreign sovereign debt, investment grade foreign sovereign debt, and other investment grade non-equity securities. According to the NYSE, the proposed margin requirements recognize both the quality of the securities and the creditworthiness of the customer and, accordingly, are intended to maintain reasonable safety and soundness standards. For transactions in these types of securities by exempt accounts, member organizations will be required to either take net capital charges or to collect margin equal to marked to market losses and any percentage requirements under the rule. The percentage requirements will be:

3% of current market value for all investment grade corporate debt and for foreign sovereign debt in the lower two investment grade categories; and

.5% of current market value for foreign sovereign debt in the second highest investment grade category (*i.e.*, highly rated foreign sovereign debt securities).

Under revised NYSE Rule 431(e)(2)(F), ''Transactions with Exempt Accounts Involving Certain 'Good Faith' Securities,'' the highest grade foreign sovereign debt security (*i.e.*, major foreign sovereign debt securities) [11] and mortgage-related securities will be accorded the same treatment as U.S. Government securities in that no margin will be required and marked to the market losses need not be collected, subject to the limits in proposed NYSE Rule 431(e)(2)(H), ''Limits on Net Capital Deductions for Exempt Accounts.'' Currently, investment grade foreign sovereign debt is treated the same as marginable corporate debt, which requires 20% margin.

Proposed NYSE Rule 431(e)(2)(H) will impose limitations on the amount of any uncollected marked to market losses which are being deducted from a member organizations' net capital under proposed NYSE Rule 431(e)(2)(F) and 431(e)(2)(G). The limits will be established at 5% of Tentative Net Capital (Net Capital before deductions on securities) for *each* exempt account, and 25% of Tentative Net Capital for *all* exempt accounts combined. When marked to market losses exceeding these limits continue to exist on the fifth business day after they were incurred, the member organization must provide the Exchange with written notification and may not enter into any new transactions that would result in an increase in the amount of the excess.

Finally, the NYSE's proposal contains a new definition section, which, among other things, specifically defines the following types of non-equity securities:

''highly rated foreign sovereign debt securities'' (proposed NYSE Rule 431(a)(9));

''investment grade debt securities'' (proposed NYSE Rule 431(a)(10));

''major foreign sovereign debt securities'' (proposed NYSE Rule 431(a)(11));

''listed non-equity securities'' (proposed NYSE Rule 431(a)(15)); and

''other marginable non-equity securities'' (proposed NYSE Rule 431(a)(16)).

The defined terms categorize certain types of non-equity securities for purposes of prescribing the applicable margin requirements.

(2) Statutory Basis

The NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which provides that the rules of the

ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicity) in one of the top four rating categories by at least one nationally recognized statistical rating organization.

[7] The proposal defines *listed non-equity securities* to mean any non-equity securities that: (1) are listed on a national securities exchange; or (2) have unlisted trading privileges on a national securities exchange. *See* proposed NYSE Rule 431(a)(15).

[8] The proposal defines *other marginable non-equity secuities* as (1) any debt securities not traded on a national securities exchange that meet all of the following requirements: (a) at the time of the original issue, a principal amount of not less than $25,000,000 of the issue was outstanding; (b) the issue was registered under Section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to the Act or is an insurance company under Section 12(g)(2)(G) of the Act; and (c) at the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments; or (2) any private pass-through securities (not guaranteed by a U.S. government agency) that meet all of the following requirements: (a) an aggregate principal amount of not less than $25,000,000 was issued pursuant to a registration statement filed with the Commission under Section 5 of the Securities Act of 1933; (b) current reports relating to the issue have been filed with the Commission; and (c) at the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest, principal payments, and other distributions are being passed through as required and that the servicing agent is meeting its material obligations under the terms of the offering. *See* proposed NYSE Rule 431(a)(16).

[9] *See* SEC Rule 15c3–1.

[10] Specifically, the NYSE proposes to revise the current definition of ''designated account'' in NYSE Rule 431(a)(3) to indicate that a designated account means the account of: (1) a bank, as defined in Section 3(a)(6) of the Act; (2) a savings association, as defined in Section 3(b) of the Federal Deposit Insurance Act, the deposits of which are insured by the Federal Deposit Insurance Corporation; (3) an insurance company, as defined in Section 2(a)(17) of the Investment Company Act of 1940; (4) an investment company registered with the SEC under the Investment Company Act of 1940; (5) a state or a political subdivision thereof; or (6) a pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof. NYSE Rule 431(a)(3) currently defines ''designated account'' as the account of a bank, trust company, insurance company, investment trust, state or political subdivision thereof, charitable or nonprofit educational institution regulated under the laws of the United States or any state, or pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof.

[11] The proposal defines ''*major foreign sovereign debt securities*'' a any debt securities issued or guaranteed by the government of a foreign country or a supranational entity, if, at the time of the extension of credit [regarding] (sic) the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top four rating categories by at least one nationally recognized statistical rating organization. *See* proposed NYSE Rule 431(a)(11).

Exchange must be designed to promote just and equitable principles of trade and to protect the investing public. The NYSE believes that the proposed rule change is also consistent with the rules and regulations of the FRB for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furthermore of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 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 NYSE. All submission should refer to file number SR–NYSE–98–14 and should be submitted by August 26, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–20870 Filed 8–4–98 8:45am]

BILLING CODE 8010–01–M

[12] 17 CFR 200.30–(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB 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.

DATES: Submit comments on or before September 4, 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.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–6629.

SUPPLEMENTARY INFORMATION:

Title: Disclosure Statement.
Form No.: 856.
Frequency: Biannually.
Description of Respondents: Small Business Investment Companies.
Annual Responses: 200.
Annual Burden: 200.

Title: Application for Pool of Guaranteed Interest Certificates.
Form No: 1454.
Frequency: On Occasion.
Description of Respondents: SBA Loan Pool Assemblers.
Annual Responses: 450.
Annual Burden: 1350.

Dated: July 29, 1998.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–20861 Filed 8–4–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3107]

State of New Hampshire

As a result of the President's major disaster declaration on July 2, 1998 for emergency assistance only, and an amendment thereto on July 14, 1998 adding Individual Assistance, I find that Belknap, Carroll, Grafton, Merrimack, and Rockingham Counties in the State of New Hampshire constitute a disaster area due to damages caused by severe storms and flooding beginning on June 12, 1998, and continuing. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on September 12, 1998, and for loans for economic injury until the close of business on April 14, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Coos, Hillsborough, Strafford, and Sullivan Counties in New Hampshire, and Oxford and York Counties in Maine.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
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

	Percent
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 310706. For economic injury the numbers are 994000 for New Hampshire, and 994100 for Maine.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–20860 Filed 8–4–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of action subject to intergovernmental review.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 35 existing Small Business Development Centers (SBDCs) for refunding on January 1, 1999, subject to the availability of funds. Ten states do not participate in the EO 12372 process, therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 120 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the addresses section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding by September 4, 1998 to the SBDC.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Michael York, State Director, Maricopa Community College, 2411 West 14th Street, Tempe, AZ 85281–6941, (602) 731–8202

Ms. Kimberly Neri, State Director, California Trade & Comm. Agency, 801 K Street, Suite 1700, Sacramento, CA 95824, (916) 324–9538

Ms. Edith McCloud, Acting Director, Howard University, 2600 6th St., NW., Room 125, Washington, DC 20059, (202) 806–1500

Mr. Michael Finnerty, State Director, Salt Lake Community College, 1623 South State Street, Salt Lake City, UT 84115, (801) 957–3481

Ms. Cec Ortiz, State Director, Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202, (303) 892–2794

Mr. Jerry Cartwright, State Director, University of West Florida, 19 West Garden Street, Pensacola, FL 32501, (850) 595–6060

Mr. Hank Logan, State Director, University of Georgia, Chicopee Complex, Athens, GA 30602, (706) 542–6762

Mr. Sam Males, State Director, University of Nevada/Reno, College of Business Admin., Room 411, Reno, NV 89557–0100, (702) 784–1717

Mr. Steve Thrash, State Director, Economic Development Council, One North Capitol, Suite 420, Indianapolis, IN 46204, (317) 264–6881

Mr. Darryl Mleynek, State Director, University of Hawaii/Hilo, 200 West Kawili Street, Hilo, HI 96720, (808) 974–7515

Mr. Jeffrey Mitchell, State Director, Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524–5856

Ms. Mary Collins, State Director, University of New Hampshire, 108 McConnell Hall, Durham, NH 03824, (603) 862–4879

Mr. Charles Davis, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780–4420

Mr. Scott Daugherty, State Director, University of North Carolina, 333 Fayetteville Street Mall, Suite 1150, Raleigh, NC 27514, (919) 715–7272

Dr. Grady Pennington, State Director, SE Oklahoma State University, 517 West University, Durant, OK 74701, (405) 924–0277

Mr. Greg Higgins, State Director, University of Pennsylvania, The Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898–1219

Mr. Ronald Hall, State Director, Small Business Dev. Center, 2727 Second Avenue, Detroit, MI 48201, (313) 964–1798

Mr. Wally Kearns, State Director, University of North Dakota, P.O. Box 7308, Grand Forks, ND 58202, (701) 777–3700

Ms. Erica Kauten, State Director, University of Wisconsin, 432 North Lake Street, Room 423, Madison, WI 53706, (608) 262–3878

Mr. Douglas Jobling, State Director, Bryant College, 1150 Douglas Pike, Smithfield, RI 02917, (401) 232–6111

Mr. John Lenti, State Director, University of South Carolina, College of Business Admin., 1710 College Street, Columbia, SC 29208, (803) 777–4907

Dr. Kenneth J. Burns, State Director, University of Memphis, South Campus, Building #1, Memphis, TN 38152, (901) 678–2500

Dr. Stephen L. Marder, Executive Director, University of Guam, P.O. Box 5061, UOG Station, Mangilao, GU 96923, (671) 735–2590

Mr. Steve Tracy, Acting State Director, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677–5498

Ms. Carol Reisenberg, State Director, Washington State University, 501 Johnson Tower, Pullman, WA 99164–4851, (509) 335–1576

FOR FURTHER INFORMATION CONTACT: Johnnie L. Albertson, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, S.W., Suite 4600, Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) strengthen the small business community;

(b) increase economic growth;

(c) assist more small businesses; and

(d) broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC subcenters. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general

or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) locate subcenters so that they are as accessible as possible to small businesses;

(b) open all subcenters at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) maintain lists of private consultants at each subcenter.

Dated: July 10, 1998

Johnnie L. Albertson,

Associate Administrator for Small Business Development Centers.

[FR Doc. 98–20780 Filed 8–4–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Notice is given that a new chapter, TAG for the Office of the Deputy Commissioner, Policy (ODCP) is being issued. This statement also amends parts S and T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter TA covers the Office of the Deputy Commissioner, Programs and Policy (ODCPP). Notice is given that this office is being retitled as the Office of the Deputy Commissioner, Disability and Income Security Programs (ODCDISP). Subchapter TAR, the Office of Policy and Planning will be abolished and the functions split between ODCP and ODCDISP. Subchapter TAN, the Office of Research, Evaluation and Statistics will also be abolished within ODCPP and be reestablished as a new office with the newly created Office of the Deputy Commissioner, Policy. Subchapter TAJ, the Office of International Policy is being retitled as the Office of International Programs. Subchapter TAP, the Office of Program Benefits Policy is being retitled as the Office of Program Benefits. Notice is further given that Chapter S, the Social Security Administration opening chapter will be amended to reflect these organizational changes.

The changes are as follow:

Section S.10 *The Social Security Administration*—(Organization):

Retitle:

I. ''The Office of the Deputy Commissioner, Programs and Policy'' to ''The Office of the Deputy Commissioner, Disability and Income Security Programs''.

Add:

K. The Office of the Actuary (TC).

L. The Office of Communications (TE).

M. The Office of Policy (TG).

Add new Chapter.

Chapter TG

Office of the Deputy Commissioner, Policy

TG.00 Mission

TG.10 Organization

TG.20 Functions

Section TG.00 *The Office of the Deputy Commissioner, Policy*—(Mission):

The Deputy Commissioner, Policy is the principal advisor to the Commissioner of Social Security on major policy issues and is responsible for major activities in the areas of strategic policy planning, policy research and evaluation, statistical programs, and overall policy development and analysis. The Office of the Deputy Commissioner, Policy (ODCP) serves as the Agency lead spokesperson in presenting policy proposals and analysis within and outside the Executive Branch. The Office directs the formulation of overall policy for SSA and ensures the consistency of policy development and implementation activities across all programs administered by SSA. The Office broadly formulates, promulgates, and interprets programs, objectives, and policy. The Office directs research, evaluation and analysis, and development of demonstrations and studies supporting the policy development of SSA. Provides recommendations on modification of social insurance and income assistance programs administered by SSA. Conducts the statistical programs of the Agency. The Office is involved in developing legislative and regulatory specifications and analyses of legislative and budgetary impacts. The Office works with the Department of Treasury on issues of policy relating to the Federal Insurance Contributions Act and the Self-Employment Contributions Act, including such matters as definition of wages and implementation of law. It directs formulation of Agency policy regarding related government programs that affect SSA programs and/or operations and negotiates related agreements with other agencies. It evaluates the effectiveness of national policies in meeting both short and long-term program goals.

Section TG.10 *The Office of the Deputy Commission, Policy*—(Organization):

The Office of the Deputy Commissioner, Policy, under the leadership of the Deputy Commissioner, Policy, includes:

A. The Deputy Commissioner, Policy (TG).

B. The Assistant Deputy Commissioner, Policy (TG).

C. The Immediate Office of the Deputy Commissioner, Policy (TGA).

D. The Office of Research, Evaluation and Statistics (TGB).

E. The Office of Disability and Income Assistance Policy (TGC).

F. The Office of Retirement Policy (TGE).

Section TG.20 *The Office of the Deputy Commissioner, Policy*—(Functions):

A. The Deputy Commissioner, Policy (TG) is directly responsible to the Commissioner for carrying out the ODCP mission and for providing general supervision to the major components of ODCP.

B. The Assistant Deputy Commissioner, Policy (TG) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner, Policy (TGA) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Office of Research, Evaluation and Statistics (TGB) develops and conducts SSA's research and statistical programs. Topics of research include evaluation of such things as income security, the effects of Social Security and income assistance programs on the economy, financing, and adequacy of cash benefits. This Office plans and directs studies to evaluate the effects of proposed policy changes on individuals, the economy, SSA programs and the interactions among these programs, other tax and income-transfer programs, and economic, social and demographic forces. Short and long-term research on the disabled population, work incentives, assessment tools, and impact of current and emerging medical technologies on SSA disability

financing and income assistance programs are conducted by the Agency under the oversight of this Office. This Office is also responsible for designing, implementing and assessing the results of models that test proposed changes in policy. Establishes linkages of SSA data with data from other statistical and record systems and develops and operates models to analyze the impact of present programs and program alternatives. Conducts broad analyses of major social and economic trends and their impact on Social Security and income assistance program policy.

E. The Office of Disability and Income Assistance Policy (TGC) provides broad policy analysis and development in disability and Supplemental Security Income (SSI) programs.This Office is responsible for the development of disability and income assistance policy for the Agency. This Office conducts broad analyses of eligibility and return to work proposals. It formulates Agency policy regarding cross-cutting programs or issues related to disability and/or income assistance programs and works with other agencies, including the Department of Health and Human Services (HHS), toward this end.

F. The Office of Retirement Policy (TGE) provides policy analysis and policy development in retirement and survivors insurance programs. This Office is responsible for the development of social insurance, financing and economic policy for the Agency. Conducts broad analyses of major social and economic trends and their impact on social insurance policies.

Add new Subchapter.

Subchapter TGB
Office of Research, Evaluation and Statistics
TGB.00 Mission
TGB.10 Organization
TGB.20 Functions

Section TGB.00 *The Office of Research, Evaluation and Statistics*—(Mission):

The Office of Research, Evaluation and Statistics develops and conducts SSA's research and statistical programs. Topics of research include evaluation of such things as income security, the effects of Social Security and income assistance programs on the economy, financing, and adequacy of cash benefits. This Office plans and directs studies to evaluate he effects of proposed policy changes on individuals, the economy, SSA programs and the interactions among these programs, other tax and income-transfer programs, and economic, social and demographic forces. Short and long-term research on the disabled population, work incentives, assessment tools, and impact of current and emerging medical technologies on SSA disability financing and income assistance programs are conducted by the Agency under the oversight of this Office. This Office is also responsible for designing, implementing and assessing the results of models that test proposed changes in policy. Establishes linkages of SSA data with data from other statistical and record systems and develops and operates models to analyze the impact of present programs and program alternatives. Conducts broad analyses of major social and economic trends and their impact on Social Security and income assistance program policy.

Section TGB.0 *The Office of Research, Evaluation and Statistics.*—(Organization):

The Office of Research, Evaluation and Statistics under the leadership of the Associate Commissioner for Research, Evaluation and Statistics, includes:

A. The Associate Commissioner for Research, Evaluation and Statistics (TGB).

B. The Deputy Associate Commissioner for Research, Evaluation and Statistics (TGB)/

C. The Immediate Office of the Associate Commissioner for Research, Evaluation and Statistics (TGBA).

D. The Publications Staff (TGBB).

E. The Division of Program Analysis (TGBC).

F. The Division of Economic Research (TGBE).

G. The Division of Earnings Statistics and Analysis (TGBG).

H. The Division of Retirement, Survivors, Disability Insurance Research Statistics (TGBH).

I. The Division of SSI Analysis/ Management Statistical Support (TGBJ).

J. The Disability Research Staff (TGBK).

Section TGB.20 *The Office of Research, Evaluation and Statistics*—(Functions):

A. The Associate Commissioner for Research, Evaluation and Statistics (TGB) is directly responsible to the Deputy Commissioner, Policy for Carrying out ORES' mission, and providing general supervision to the major components of ORES.

B. The Deputy Associate Commissioner for Research, Evaluation and Statistics (TGB) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Research, Evaluation and Statistics (TGBA) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of ORES components.

D. The Publications Staff (TGBB).

1. Advises ORES on the development, organization and presentation of research and statistical studies.

2. Publishes and distributes these studies to national and international audiences.

3. Assesses informational needs of SSA staff, staff in other Government agencies, the social science research community and the public for data and findings from the ORES research program.

E. The Division of Program Analysis (TGBC).

1. Plans, designs and conducts surveys of program target groups and performs policy-relevant research.

2. Analyzes the impact of proposed policy options, legislative proposals and special high-priority issues and prepares briefing materials for SSA administrators.

3. Plans, conducts and publishes the results of cross-national research on social security programs worldwide.

F. The Division of Economic Research (TGBE).

1. Plans, directs and executes issue-oriented research to provide information about relationships between the Social Security program, the economy and other aspects of society.

2. Interprets changing demographic and economic trends as they relate to the broad field of economic security and to overall economic and social policy.

3. Studies such major areas as: Social Security financing, economic impacts of Social Security, income maintenance, effect of Social Security on lifetime income redistribution, alternative measures of income adequacy, and labor market and retirement behavior.

G. The Division of Earnings Statistics and Analysis (TGBG).

1. Plans, coordinates and directs the preparation of statistical and analytical data pertaining to earnings, employment and employer classification. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA, and for research by other Federal and State and local government agencies, universities, and private research organizations.

2. Provides ORES and other SSA researchers with support in the development of social science survey data linked with SSA administrative record data.

H. The Division of Retirement, Survivors and Disability Insurance Research Statistics (TGBH).

1. Plans, coordinates and directs the preparation of statistical and analytical data pertaining to RSDI claims and benefits provisions of Title II of the Social Security Act. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA, and for research by other Federal and State and local government agencies, universities and private research organizations.

I. The Division of SSI Analysis/Management Statistical Support (TGBJ).

1. Plans, coordinates and directs the preparation of statistical and analytical data pertaining to the Supplemental Security Income provisions of Title XVI of the Social Security Act. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA and for research by other Federal and State and local government agencies, universities and private research organizations.

2. Provides management statistical services to SSA operating and policy components, including such activities as the development of general purpose and customized field office samples, development of work sampling systems and quality assurance systems, and the design and analysis of operational pilot studies. Provides support for the development and use of mathematical models and statistical methods.

J. The Disability Research Staff (TGBK).

1. Plans, directs and implements a wide range of studies and analyses, utilizing data from surveys and administrative records, on the national disabled population, disability applicants and disability beneficiaries.

2. Develops research in response to DI program issues.

3. Maintains and develops research surveys and administrative data files used in the analysis of disability data.

Retitle:

Chapter TA, ''The Office of the Deputy Commissioner, Programs and Policy'' to ''The Office of the Deputy Commissioner, Disability and Income Security Programs''. Change all references to ''The Office of the Deputy Commissioner, Programs and Policy'' to ''The Office of the Deputy Commissioner, Disability and Income Security Programs'' and all references to ''ODCPP'' to ''ODCDISP'' throughout Chapter TA and all its Subchapters.

Section TA.00 *The Office of the Deputy Commissioner, Disability and Income Security Programs*—(Mission):

Amend to read as follows:

The Deputy Commissioner, Disability and Income Security Programs is the principal advisor to the Commissioner of Social Security on program policy issues and is involved in strategic planning, policy development, and analysis of SSA program policy. The Office of the Deputy Commissioner, Disability and Income Security Programs (ODCDISP) directs the formulation of program policy for SSA. It directs and manages the planning, development, issuance, and evaluation of operational policies, standards, and instructions for the Retirement and Survivors Insurance (RSI), Disability Insurance (DI), Supplemental Security Income (SSI) programs, and other SSA programs. The Office assists in achievement of consistency in program policy across programs administered by SSA. The Office is involved in analyses of legislative and regulatory specifications and budgetary impacts of legislation on programs administered by SSA. The Office produces data on the programs of the Agency. It is involved in the development of demonstrations and studies that provide recommendations on program improvements. The Office is responsible for the Agency's Regulatory Program. Oversees Agency hearings and appeals activities. Provides budget and management guidance for the disability claims activities as carried out by the State Disability Determination Services (DDSs). Oversees the collection, use and dissemination of both personal and non-personal information to ensure consistency with Agency objectives, law and the expectations of the American public. Develops and implements policies and procedures and coordinates activities relating to the operation of Social Security programs outside of the United States. Coordinates programmatic response to court actions and requirements in civil actions involving all Social Security administered programs.

Section TA.10 *The Office of the Deputy Commissioner, Disability and Income Security Programs*—(Organization):

Abolish and delete subchapters for same components:

D. The Office of Policy and Planning (TAR).

H. The Office of Research, Evaluation and Statistics (TAN).

Retitle:

G. ''The Office of International Policy'' (TAJ) to ''The Office of International Programs'' (TAJ).

I. ''The Office of Program Benefits Policy'' (TAP) to ''The Office of Program Benefits'' (TAP).

Amend to read as follows:

The Office of the Deputy Commissioner, Disability and Income Security Programs under the leadership of the Deputy Commissioner, Disability and Income Security Programs includes:

A. The Deputy Commissioner, Disability and Income Security Programs (TA).

B. The Assistant Deputy Commissioner, Disability and Income Security Programs (TA).

C. The Immediate Office of the Deputy Commissioner, Disability and Income Security Programs (TAA).

D. The Office of Disability (TAE).

E. The Office of Hearings and Appeals (TAH).

F. The Office of International Programs (TAJ).

G. The Office of Program Benefits (TAP).

H. The Office of Program Support (TAS).

Section TA.20 *The Office of the Deputy Commissioner, Disability and Income Security Programs*—(Functions):

Abolish in their entirety and delete subchapters for same components:

D. The Office of Policy and Planning (TAR).

H. The Office of Research, Evaluation and Statistics (TAN).

Retitle:

G. ''The Office of International Policy'' (TAJ) to ''The Office of International Programs'' (TAJ).

I. ''The Office of Program Benefits Policy'' (TAP) to ''The Office of Program Benefits'' (TAP).

Amend to read as follows:

A. The Deputy Commissioner, Disability and Income Security Programs (TA) is directly responsible to the Commissioner for carrying out the ODCDISP mission and for providing general supervision to the major components of ODCDISP.

B. The Assistant Deputy Commissioner, Disability and Income Security Programs (TA) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner, Disability and

Income Security Programs (TAA) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Office of Disability (TAE) plans, develops, evaluates, and issues operational and administrative appeals process regulations, rulings, policies, standards, and instructions for use by State, Federal, and private contractor providers which implement the disability provisions of the Social Security Act. Provides operational policy advice, technical support, management information, and management direction to central office and field components in the administration of the disability programs. Evaluates the effects of proposed legislation and legislation pending before the Congress to determine the operational impact on the disability programs. Provides national budgeting and oversight of disability claims processing as carried out by the State DDSs. Processes State agency workloads on a temporary or transitional basis.

E. The Office of Hearings and Appeals (TAH) administrators the nationwide hearings and appeals program for SSA. Holds hearings and issues decisions as part of the SSA appeals process. Directs a nationwide field organization that conducts impartial hearings and makes decisions on appealed determinations involving Retirement, Survivors, Disability, Health Insurance, Black Lung and Supplemental Security Income benefits.

F. The Office of International Programs (TAJ) serves as SSA's focal point for international program policy matters and for its participation in the international Social Security community. Serves as liaison to international agencies and associations that deal with Social Security matters. Negotiates international Social Security (totalization) agreements with foreign governments and develops policies and procedures to implement the agreements. Develops and implements policies and procedures relating to the operation of the Social Security program outside the United States. Provides training programs and technical consultation on Social Security and related fields to Social Security officials and other experts outside the United States.

G. The Office of Program Benefits (TAP) provides SSA-wide leadership and direction to the development, coordination and promulgation of procedures, operational policies, standards and instructions for the Retirement, Survivors and Supplemental Security Income (SSI) programs administered by the Agency. Develops and issues guidelines for use by State and Federal organizations which implement the SSI provisions. Develops agreements with State supplementation programs, Medicaid eligibility, data exchange programs, food stamps and fiscal reporting processes. Coordinates programmatic response to court actions and requirements in civil actions involving all Social Security administered programs. Directs the coordination and publication of acquiescence rulings and instructions related to acquiescence rulings.

H. The Office of Program Support (TAS) provides leadership in overseeing the Agency's system of programmatic instructions, notices to the public and technical documents. Develops and maintains standards governing the translating of policy decisions into operational policies, procedures and notices. Responsible for the Agency's Regulatory Program, including development of SSA's Regulatory Plan and the Agency's portion of the Unified Agenda of Federal Regulations. Oversees the Agency's implementation of policies that utilize technologies in providing service to the public and provides program management of such technological applications. Develops and interprets SSA program policy governing requests for disclosure of information from Agency records under the provisions of the Privacy Act and the Freedom of Information Act. Designs, implements and maintains automated information and communications systems ODISP-wide.

Retitle:

Subchapter TAJ, ''The Office of International Policy'' to ''The Office of International Programs''. Change all references to ''The Office of International Policy'' to ''The Office of International Programs'' throughout Chapter TA and all its sub chapters.

Retitle:

Subchapter TAP, ''The Office of Program Benefits Policy'' to ''The Office of Program Benefits''. Change all references to ''The Office of Program Benefits Policy'' to ''The Office of Program Benefits'' and all references to ''OPBP'' to ''OPB'' throughout Chapter TA and all its subchapters.

Dated: July 17, 1998.

Kenneth S. Apfel,

Commissioner of Social Security

[FR Doc. 98–20866 Filed 8–4–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending July 24, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–4168.

Date Filed: July 23, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC12 USA–EUR 0054 dated June 29, 1998 r1–25, Mail Vote 947 (USA-Austria/Belgium/Germany), Intended effective date: November 1, 1998.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–20806 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 24, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4127.

Date Filed: July 20, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 17, 1998.

Description: Application of Sabena S.A., Sabena Belgian World Airlines pursuant to 49 U.S.C. Section 41302 and Subpart Q, applies for a foreign air carrier permit to authorize it to provide scheduled foreign air transportation of persons, property, and mail from points behind Belgium via Belgium and intermediate points to a point or points in the United States and beyond.

Docket Number: OST–98–4148.

Date Filed: July 22, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 19, 1998.

Description: Application of Voyageur Airways Limited pursuant to 49 U.S.C. Section 41302 and Subpart Q, applies for a foreign air carrier permit to provide scheduled air transportation of persons, property and mail between any point or points in Canada, and any point or points in the United States.

Docket Number: OST–98–4162.

Date Filed: July 23, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: August 20, 1998.

Description: Application of Air Luxor, S.A. pursuant to 49 U.S.C. Section 41301 and Subpart Q of the Regulations, applies for a foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail between points in Portugal and points in the United States, together with authority to operate fifth freedom charter transportation between points in the United States and points in third countries in accordance with Part 207 of the Regulations.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–20807 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on 2 currently approved public information collections which will be submitted to OMB for renewal.

DATES: Comments must be received on or before October 5, 1998.

ADDRESSES: Comments on any of these collections may be mailed or delivered to the FAA at the following address: Ms. Judith Street, Room 612, Federal Aviation Administration, Corporate Information Division, APF–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms Judith Street at the above address or on (202) 267–9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to minimize the burden of the collection. Following are short synopses of the 2 currently approved public information collection activities, which will be submitted to OMB for review and renewal:

1. 2120–0034, Medical Standards and Certification. This information for the medical certification of airmen is collected under the authority of 49 U.S.C. 40113, 44701, 44501, 44702, 44709, 45303, and 80111. The airman medical certification program is implemented by Title 14, Code of Federal Regulations (CFR) parts 61 and 67 (14 CFR parts 61 and 67). Using four forms to collect information, the Federal Aviation Administration (FAA) determines if applicants are medically qualified to perform the duties associated with the class of airman medical certificate sought. The forms used are: FAA form 8500–7, Report of Eye Evaluation; FAA Form 8500–8, Application for Airman Medical Certificate or Airman Medical and Student Pilot Certificate; FAA Form 8500–14, Ophthalmological Evaluation for Glaucoma; FAA Form 8500–20, Medical Exemption Petition (Operational Questionnaire). The applicants are persons desiring medical certificates. The total burdens hours associated with this collection is estimated to be 860,000 hours annually.

2. 2120–0593, Commuter Operations and General Certification and Operations Requirements. Title 49 U.S.C. Section empowers the Secretary of Transportation to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom such certificates are issued. The respondents to this information collection will be Far Part 135 commuter operators transitioning to FAR Part 121 operating standards. The FAA will use the information to ensure compliance and adherence to the regulation. It is estimated that the burden associated with the transition will be 36,000 hours.

Issued in Washington, D.C., on July 30, 1998.

Steve Hopkins,

Manager, Corporate Information Division, APF–100.

[FR Doc. 98–20939 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4208]

MHT Luxury Alloys, Receipt of Application for Decision of Inconsequential Noncompliance

MHT Luxury Alloys (MHT) of Torrance, California has determined that some of the rims it manufactured and marketed fail to comply with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, ''Tire Selection and Rims for Vehicles Other Than Passenger Cars,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' MHT has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraph S5.2 of FMVSS No. 120 states that each rim, or at the option of the manufacturer in the case of a single-piece wheel, wheel disc shall be marked with the information listed in paragraphs (a) through (e), in lettering not less than 3 millimeters high, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.125 millimeter. These five paragraphs labeled (a) through (e) require the following labeling:

(a) A designation which indicates the source of the rim's published nominal dimensions;

(b) The rim size designation;

(c) The symbol DOT constituting a certification by the manufacturer of the rim that the rim complies with all applicable motor vehicle safety standards;

(d) A designation that identifies the manufacturer of the rim by name, trademark, or symbol; and

(e) The month, day, and year or the month and year of manufacture.

From January 1, 1996 through November 13, 1997, MHT produced and sold approximately 13,000 rims which do not contain four of the five labeling requirements stated in the standard. However, MHT did permanently place on the center of the rim on the weather side a mark of ''MHT,'' ''NICHE,'' ''NEEPER,'' or other registered trade name of MHT Luxury Alloys, which it

believes is a sufficient designation of the rim's manufacturer.

MHT supports its application for inconsequential noncompliance with the following statements:

1. Although the symbol ''DOT'' [and other labeling requirements] did not appear on the described rims, each rim did comply with all applicable motor vehicle safety standards.

2. MHT has received no complaints from consumers that (i) the rims did not comply with all applicable motor vehicle safety standards, or (ii) the rims did not contain the required labeling.

3. The subject rims were initially designed and manufactured for application on passenger vehicles. MHT's management was not aware of the labeling requirements and believed that because the rims were originally designed and manufactured for passenger vehicles, they were exempt from the labeling requirements.

4. The names ''MHT,'' ''NICHE,'' ''NEEPER,'' and other registered trade names of MHT are extremely well known in the industry and to the consumers of motor vehicle rims. MHT believes that a consumer could inquire at any store, distributor, warehouse, or manufacturer within the United States as (i) to the identity and general location of MHT, (ii) be advised that MHT is the manufacturer of rims that bear its name and its trademarks, and (iii) that MHT is located in Los Angeles County, California. MHT has consistently responded promptly and fully to any consumer inquires regarding its products.

5. Upon receipt of a National Highway Traffic Safety Administration (NHTSA) letter, date October 6, 1997, MHT promptly ordered a marking machine to imprinted each new and ''in warehouse'' rim with the required information. Since November 13, 1997, all rims distributed by MHT have been marked in compliance with S5.2.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C., 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: September 4, 1998.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 30, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–20805 Filed 8–4–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 863]

The Gang Resistance and Education Training Program: Availability of Financial Assistance, Criteria and Application Procedures

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

ACTION: Notice of availability of funds for financial assistance to State and local law enforcement agencies providing or desiring to provide the Gang Resistance Education and Training Program, intended funding priorities, and application procedures.

SUMMARY: Subject to the availability of appropriations, the Bureau of Alcohol, Tobacco and Firearms (ATF) intends to enter into cooperative agreements with State and local law enforcement agencies to assist them in providing the Gang Resistance Education and Training (G.R.E.A.T.) Program. This notice also sets forth the intended funding priorities and the criteria and application procedures that ATF will use to select and award State and local law enforcement agencies Federal funds to provide the G.R.E.A.T. Program.

DATES: Applications must be received on or before September 4, 1998.

ADDRESSES: Send applications to G.R.E.A.T. Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50418; Washington, DC 20091–0418; *ATTN: Notice No. 863.*

FOR FURTHER INFORMATION CONTACT: Thomas L. Schneider or Jim Scott, G.R.E.A.T. Branch, Bureau of Alcohol, Tobacco and Firearms, PO Box 50418, Washington, DC 20091–0418 (1–800–726–7070); or by sending electronic mail (E-mail) to: Great@atfhq.atf.treas.gov, or visit the G.R.E.A.T. website at www.atf.treas.gov/great/great.htm.

SUPPLEMENTARY INFORMATION:

Background

G.R.E.A.T. is a gang prevention program designed to educate the youth about the dangers associated with joining street gangs and participating in violent crime. It functions as a cooperative program that utilizes the skills of ATF, Federal, State and local law enforcement personnel, as well as individuals from the community and civic groups. The G.R.E.A.T. Program trains police officers to provide instruction to grade and middle school aged children in gang prevention and anti-violence techniques. Training may be provided to any Federal, State, or local law enforcement agency, to the extent allocated funds allow. G.R.E.A.T. consists of three major phases:

Phase I School-Based Education
Phase II Summer Education/Intervention
Phase III Parent Involvement

Although the primary focus of the G.R.E.A.T. Program is Phase I, applicants who are selected for financial assistance will be required to develop programs tailored to their respective communities for Phases II and III.

Application Procedures

Application for financial assistance shall be made on ATF Form 6410.1 (Gang Resistance Education and Training Funding Application) (form under review at the Office of Management and Budget). Application forms may be obtained by contacting Thomas L. Schneider or Jim Scott, G.R.E.A.T. Branch, Bureau of Alcohol, Tobacco and Firearms, PO Box 50418, Washington, DC 20091–0418 (1–800–726–7070). E-mail address: Great@atfhq.atf.treas.gov or visit the G.R.E.A.T. website at www.atf.treas.gov/great/great.htm.

Funding Categories and Funding Distributions

In order to provide funding to a range of community sizes and locations, the applicants will be divided into five categories based on population. These categories will consist of populations: (A) 1,000,000 and over; (B) 500,000–999,999; (C) 100,000–499,999; (D) 25,000–99,999; (E) 24,999 or less. Each applicant will be required to report its population figures by using the Bureau of Census State Population Report for its entire service area. The population figures may be obtained from the Census Bureau's website at: www.census.gov/population/www/estimates or contacting the Census Bureau at 301–457–2422. After the applications are evaluated, each applicant will be ranked against the other applicants in its

category. The funds will then be awarded in descending order until the funding available in each category is exhausted.

Criteria and Points

Each application will be evaluated and scored on the basis of the following criteria: (1) Juvenile crime statistics—50 points; (2) Percentage of middle school students proposed to be taught and have been taught—20 points; (3) Percentage of elementary school students proposed to be taught—5 points; (4) Agency commitment—15 points; (5) Other—10 points.

Criterion 1 (Juvenile Crime Statistics). There are two application categories for Criterion 1, 1:A and 1:B. The categories distinguish between applicants who have participated in the G.R.E.A.T. Program or any other school-based prevention program (such as D.A.R.E.) and those who have not. Applicants who have not participated in the G.R.E.A.T. Program or any other school-based prevention program must apply using Criterion 1:A. Applicants who have completed a year or more of the G.R.E.A.T. Program or any other school-based prevention program, have a choice of applying under Criterion 1:A or 1:B. The maximum value for Criterion 1 will be 50 points.

1:A. Criterion 1:A is designed to measure the magnitude of an applicant's youth crime problem. This criterion will utilize the Uniform Crime Reports (UCR) for the United States that are published annually by the Federal Bureau of Investigations (FBI). The total juvenile crime figures that will be used are the Part I and II offenses reported in the most recent UCR. The Part I and II offenses that are reported in the UCR are enumerated and defined in Appendix II of the UCR. In the event that an applicant does not provide annual data to the FBI for purposes of the UCR, the applicant should contact the G.R.E.A.T. Branch to determine how it can best submit information to measure its youth crime statistics. ATF will obtain the juvenile crime figures directly from the FBI. An applicant must indicate which service area (i.e., city, county, etc.) ATF should use to obtain their juvenile crime figures. An applicant will receive a score based on its total juvenile crime figures, as reported by the most recent UCR. Scores will be calculated by dividing the applicant's reported population into the total juvenile crime figures reported in the most recent UCR.

1:B. Criterion 1:B is designed to measure a change in an applicant's youth crime problem since using G.R.E.A.T. or other school-based prevention programs. This criterion will also utilize the UCR, as outlined in criterion 1:A. An applicant must indicate which service area (i.e., city, county, etc.) ATF should use to obtain their juvenile crime figures. An applicant will receive a score based on a comparison of its total juvenile crime figures, as reported by the UCR that immediately preceded the applicant's initial participation in the G.R.E.A.T. Program or other school-based prevention program to the most recent UCR. Scores will be calculated by the percentage of decrease in the juvenile crime figures revealed by the most recent UCR.

Criterion 2. This criterion will measure middle school participation and consists of two sections, Section A and Section B.

Section A. An applicant will receive points based on the percentage of middle school students proposed to be taught G.R.E.A.T. compared to the total population of middle school students in the jurisdiction. The maximum value for this criterion will be 10 points.

Section B. An applicant will receive points based on the percentage of middle school students that were taught G.R.E.A.T. in the last school year compared to last year's total population of middle school students. The maximum value for this criterion will be 10 points.

Criterion 3. This criterion will measure elementary school participation. An applicant will receive points based on the percentage of elementary school students proposed to be taught G.R.E.A.T. compared to the total population of elementary school students in the jurisdiction. The maximum value for this criterion will be 5 points (the point value is limited to 5 points because the current focus of the G.R.E.A.T. Program is for middle school-aged children).

Criterion 4. This criterion will measure the applicant's commitment to the G.R.E.A.T. Program and consists of two sections, Section A and Section B.

Section A. This section will compare the total officer staff-hours currently spent teaching the G.R.E.A.T. Program (to include classroom time, preparation, parent programs, and the summer component) in relation to the applicant's total full-time, officer staff. The total value for this section shall be 10 points.

Section B. This section will be weighed according to the applicant's plans to create or expand its current program. An applicant will estimate the total additional staff-hours that it plans to spend on the program in the next fiscal year through training additional officers, devoting additional staff-hours using existing G.R.E.A.T. officers, or both. The total planned increase in staff-hours will be scored to a maximum of 5 points.

Criterion 5. This criterion will be used to measure other relevant factors. For this criterion, a maximum of 10 points will be awarded for meeting one or more of the following: (1) The applicant has developed and demonstrated a model for a parent program, summer program, after-school program, or community partnership; (2) The applicant has demonstrated support of the National G.R.E.A.T. Program, National Training Team, seminars, or workshops; (3) The applicant has previously expressed and documented an interest in funding support; or (4) The applicant can demonstrate a geographic significance for the expansion of the G.R.E.A.T. Program in its area.

Tiebreaker

Because all available funds are to be distributed in descending order until exhausted, the potential exists for a value point tie for communities competing for the last remaining funds. In order to distribute funds fairly, tied agencies will be ranked according to their total scores from Criterion I.

Paperwork Reduction Act

The collection of information contained in this notice is under review at the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507).

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.

Authority and Issuance

This notice is issued pursuant to Office of Management and Budget Circular No. A–102 (Grants and Cooperative Agreements with State and Local Governments).

Approved: July 31, 1998.

John W. Magaw,

Director.

[FR Doc. 98–20864 Filed 8–4–98; 8:45 am]

BILLING CODE 4810–31–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''Reinstallation of the Cleveland Museum of Art's Armor Court''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects on the list specified below, to be included in the exhibit, ''Reinstallation of the Cleveland Museum of Art's Armor Court,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Cleveland Museum of Art, in Cleveland, Ohio, from on or about September 18, 1998, to on or about September 18, 1999 or 2000, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: July 29, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–20831 Filed 8–4–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: ''Van Gogh's Van Goghs: Masterpieces From the Van Gogh Museum, Amsterdam''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Van Gogh's Van Goghs: Masterpieces From The Van Gogh Museum, Amsterdam'' (see list), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at the National Gallery of Art, Washington, D.C., from on or about October 4, 1998, to on or about January 3, 1999, and, at the Los Angeles County Museum of Art, Los Angeles, California, from on or about January 17, 1999, to on or about April 4, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Ms. Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, 202/619–6982, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547–0001.

Dated: July 29, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–20832 Filed 8–4–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Wednesday
August 5, 1998

Part II

Office of Management and Budget

1998 Standard Occupational Classification Revision; Notice

OFFICE OF MANAGEMENT AND BUDGET

1998 Standard Occupational Classification Revision

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

ACTION: Notice of solicitation of comments.

SUMMARY: Under title 44 U.S.C. 3504, the Office of Management and Budget (OMB) is seeking public comment on the Standard Occupational Classification Revision Policy Committee's (SOCRPC) final recommendations for revising the 1980 Standard Occupational Classification's (SOC) occupational units and aggregate groups presented in this notice. The SOCRPC has developed a new occupational classification system that will cover all jobs in the national economy, including occupations in the public, private, and military sectors.

All Federal agencies that collect occupational data will use the new system; similarly, all State and local government agencies are strongly encouraged to use this national system to promote a common language for categorizing occupations in the world of work. The new SOC system will be used by the Occupational Employment Statistics (OES) program of the Bureau of Labor Statistics (BLS) for gathering occupational information. It will also replace the Bureau of the Census' 1990 occupational classification system and will be used for the 2000 Census. In addition, the new SOC will serve as the framework for information being gathered through the Department of Labor's Occupational Information Network (O*NET), which is in the process of replacing the Dictionary of Occupational Titles (DOT).

In three prior **Federal Register** notices (February 28, 1995, 60 FR 10998–11002; October 5, 1995, 60 FR 52284–52286; July 7, 1997, 62 FR 36337–36409), OMB and the SOCRPC requested comment on the uses of occupational data; on the existing 1980 SOC classification principles, purpose and scope, and conceptual options; on the SOCRPC's proposed revision process; on the composition of detailed occupations; on the hierarchical structure and numbering system; and on update procedures.

The structure and numbering system recommended in this notice reflect the comments received from the July 7, 1997, notice, and represent the final recommendations the SOCRPC is making to OMB. OMB, in consultation with the SOCRPC, will use the comments in response to this notice on the SOCRPC final recommendations to make its final decisions for the 1998 SOC and publish them in the **Federal Register**. The SOCRPC also will begin preparing the 1998 Standard Occupational Classification Manual for publication. Committee members will be completing definitions, assigning associated titles, and developing cross lists to existing systems.

This notice contains three appendices. Appendix A presents the SOCRPC's final recommendations in the form of the complete revised SOC hierarchical structure and numbering system; Appendix B provides a crosslist between the codes proposed in this notice and those proposed in the July 7, 1997, SOC **Federal Register** notice; and Appendix C lists respondents to the July 7 notice.

Request for Comments: OMB welcomes comments with respect to any topic related to occupational classification, but is specifically interested in comments concerning:

(1) the hierarchical structure of the new SOC presented in Appendix A below, especially the minor group, broad occupation, and detailed occupation organization within the structure, and the numbering system used, and

(2) the establishment of ongoing review and update procedures and a time frame for future revision as outlined in the ''Next Steps in Process'' recommendations near the end of the Supplementary Information section below. It is anticipated that the next major review and revision of the SOC will begin in 2005 in preparation for use in the 2010 Decennial Census.

DATES: To ensure consideration all comments must be in writing and received on or before October 9, 1998.

ADDRESSES: Correspondence about the adoption and implementation of the SOC as shown in this **Federal Register** notice should be sent to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503, telephone number: (202) 395–3093, FAX number: (202) 395–7245.

Inquiries about the definition of particular occupations or requests for electronic copies of the SOC structure should be made to Laurie Salmon, Standard Occupational Classification Revision Policy Committee, Bureau of Labor Statistics, Room 4840, Washington, DC 20212, telephone number: (202) 606–6511, FAX number: (202) 606–6645.

Electronic Availability and Comment: This document is available on the Internet from the Bureau of Labor Statistics via WWW browser and E-mail. To obtain this document via WWW browser, connect to <http://stats.bls.gov/soc/soc__home.htm>. This WWW page contains previous SOC **Federal Register** notices and related documents as well. To obtain this document via E-mail, send a message to socrevision@bls.gov.

Comments may be sent via E-mail to OMB at soc@omb.eop.gov (do not include any capital letters in the address). Comments received at this address by the date specified above will be included as part of the official record.

FOR FURTHER INFORMATION CONTACT: Paul Bugg, 10201 New Executive Office Bldg., Washington, DC 20503, E-mail address: pbugg@omb.eop.gov, telephone number: (202) 395–3093, FAX number: (202) 395–7245.

SUPPLEMENTARY INFORMATION:

Revision Process

The Standard Occupational Classification Revision Policy Committee (SOCRPC) chose the Occupational Employment Statistics (OES) occupational classification system currently used by the Bureau of Labor Statistics (BLS) to gather occupational information as the starting point for the new Standard Occupational Classification (SOC) framework. The Committee also relied heavily on the Department of Labor's Occupational Information Network (O*NET), which is in the process of replacing the Dictionary of Occupational Titles (DOT). To carry out the bulk of the revision effort, the Committee created six work groups to examine occupations in the following areas: Administrative and Clerical occupations; Science, Engineering, Law, Health, Education, and Arts occupations; Services and Sales occupations; Agriculture, Construction, Extraction, and Transportation occupations; Mechanical and Production occupations; and Military Specific occupations.

The Committee charged the work groups with ensuring that the occupations under their consideration conformed to the criteria laid out in the October 5, 1995, **Federal Register** notice:

The Classification should cover all occupations in which work is performed for pay or profit, including work performed in family-operated enterprises by family members who are not directly compensated. It should exclude occupations unique to volunteers.

The Classification should reflect the current occupational structure of the United States and have sufficient flexibility to assimilate new occupations into the structure as they become known.

While striving to reflect the current occupational structure, the Classification should maintain linkage with past systems. The importance of historical comparability should be weighed against the desire for incorporating substantive changes to occupations occurring in the work force.

Occupations should be classified based upon work performed, skills, education, training, licensing, and credentials.

Occupations should be classified in homogeneous groups that are defined so that the content of each group is clear.

Each occupation should be assigned to only one group at the lowest level of the Classification.

The employment size of an occupational group should not be the major reason for including or excluding it from separate identification.

Supervisors should be identified separately from the workers they supervise wherever possible in keeping with the real structure of the world of work. An exception should be made for professional and technical occupations where supervisors or lead workers should be classified in the appropriate group with the workers they supervise.

Apprentices and trainees should be classified with the occupations for which they are being trained, while helpers and aides should be classified separately since they are not in training for the occupation they are helping.

Comparability with the International Standard Classification of Occupations (ISCO–88) should be considered in the structure, but should not be an overriding factor.

In carrying out their reviews, the work groups carefully considered all proposals received in response to **Federal Register** notices issued by OMB and the SOCRPC.

General Characteristics of the Revised SOC

In response to comments received in reference to the July 7, 1997, **Federal Register** notice, the SOCRPC significantly modified the hierarchical structure and numbering system of the revised SOC to ensure that all detailed occupations are placed within a broad occupation. In the revised SOC, there are four levels of aggregation: (1) Major group; (2) minor group; (3) broad occupation; and (4) detailed occupation. All occupations are clustered into 23 major groups (listed below), such as Management or Healthcare Practitioner and Technical occupations. These major groups are broken down into occupationally-specific minor groups, such as Operations Specialties Managers in the Management Occupations major group or Health Diagnosing and Treating Practitioners in the Healthcare Practitioner and Technical Occupations major group. Minor groups, in turn, are divided into broad occupations, such as Human Resources Managers or Therapists, which are further divided into detailed occupations, such as Compensation and Benefits Managers, or Physical Therapists.

Each item in the hierarchy is designated by a six-digit code. The hyphen between the second and third digit is used only for presentation clarity.

The first two digits of the new SOC code represent the major group; the third digit represents the minor group; the fourth and fifth digits represent the broad occupation; and the sixth digit represents the detailed occupation. Major group codes end with 0000 (e.g., 29–0000, Healthcare Practitioner and Technical Occupations), minor groups end with 000 (e.g., 29–1000, Health Diagnosing and Treating Practitioners), and broad occupations end with 0 (e.g., 29–1120, Therapists). All residuals (''Other,'' ''Miscellaneous,'' or ''All Other''), whether at the minor group, broad occupation, or detailed occupation level, will contain a 9 at the level of the residual. Minor groups that are major group residuals will end in 9000 (e.g., 11–9000, Other Management Occupations); broad occupations that are minor group residuals will end in 90 (e.g., 11–9190, Miscellaneous Management Occupations); and residual detailed occupations will end in 9 (e.g., 11–9199, Management Occupations, All Other):

11–0000 Management Occupations
11–9000 Other Management Occupations
11–9190 Miscellaneous Management Occupations
11–9199 Management Occupations, All Other

In the case where there are more than 9 broad occupations in a minor group (or more than eight, if there is no residual), the xx-x090 will be skipped (reserved for residuals), the xx-x000 will be skipped (reserved for minor groups), and the numbering system will go to xx-x110. The residual broad occupation will then be xx-x190 or xx-x290 (e.g., 51–9190, Miscellaneous Production Workers).

The proposed 1998 SOC occupational groups and detailed occupations presented in Appendix A are not always consecutively numbered because of these coding conventions as well as to allow for the insertion of additional occupational groups in future revisions of the SOC. In addition, the coding system is designed to allow those desiring a delineation of occupations below the detailed occupation level to use a decimal point and additional digit(s) after the sixth digit. It is recommended that users needing extra detail use the structure currently being developed for O*NET. Each occupation in the revised SOC will be placed within one of these major groups:

11 Management Occupations
13 0Business and Financial Operations Occupations
15 Computer and Mathematical Occupations
17 Architecture and Engineering Occupations
19 Life, Physical, and Social Science Occupations
21 Community and Social Services Occupations
23 Legal Occupations
25 Education, Training, and Library Occupations
27 Arts, Design, Entertainment, Sports, and Media Occupations
29 Healthcare Practitioner and Technical Occupations
31 Healthcare Support Occupations
33 Protective Service Occupations
35 Food Preparation and Serving Related Occupations
37 Building and Grounds Cleaning and Maintenance Occupations
39 Personal Care and Service Occupations
41 Sales and Related Occupations
43 Office and Administrative Support Occupations
45 Farming, Fishing, and Forestry Occupations
47 Construction and Extraction Occupations
49 Installation, Maintenance, and Repair Occupations
51 Production Occupations
53 Transportation and Material Moving Occupations
55 Military Specific Occupations

The SOCRPC is proposing that two aggregates of these major groups be used for survey tabulation purposes, when needed. The proposed aggregates are as follows:

Intermediate Aggregation (11 groups)

11–13 Management, Business, and Financial Occupations
15–29 Professional and Related Occupations
31–39 Service Occupations
41 Sales and Related Occupations
43 Office and Administrative Support Occupations

45 Farming, Fishing, and Forestry Occupations
47 Construction and Extraction Occupations
49 Installation, Maintenance, and Repair Occupations
51 Production Occupations
53 Transportation and Material Moving Occupations
55 Military Specific Occupations

High-level Aggregation (6 groups)

11–29 Management, Professional, and Related Occupations
31–39 Service Occupations
41–43 Sales and Office Occupations
45–49 Natural Resources, Construction, and Maintenance Occupations
51–53 Production, Transportation, and Material Moving Occupations
55 Military Specific Occupations

The 1998 SOC contains 810 detailed occupations, aggregated into 449 broad occupations. These broad occupations are grouped into 98 minor groups, that are, in turn, grouped into 23 major groups.

Significant Changes and Responses to Comments

In reply to the July 7, 1997, **Federal Register** notice, the SOCRPC received over 200 responses. All recommendations were considered by the Committee, and most were implemented. The Committee received numerous comments regarding the proposed hierarchical structure. The SOCRPC significantly revised the hierarchical structure and numbering system in response to these comments; please see Appendix A for the results of this restructuring. In addition, much of the correspondence questioned where specific unlisted occupations would be classified. The publication of index items and associated titles will clarify these issues. Specific issues (e.g., additions, modifications) implemented by the work groups are listed below; revised definitions will be made available on the SOC website. See Appendix B to match codes published in this notice with the codes published in the July 7, 1997, **Federal Register** notice.

In the Management Occupations major group, the detailed occupation ''Treasurers, Controllers, and Chief Financial Officers'' was deleted. In addition, the definitions of ''General and Operations Managers'' (11–1021), ''Computer and Information Systems Managers'' (11–3021), ''Financial Managers '' (11–3031), and ''Education Administrators, Postsecondary'' (11–9033) were modified.

In the Business and Financial Operations Occupations major group, the Committee disaggregated ''Buyers and Purchasing Agents'' into ''Purchasing Agents and Buyers, Farm Products'' (13–1021), ''Wholesale and Retail Buyers, Except Farm Products'' (13–1022), and ''Purchasing Agents, Except Wholesale, Retail, and Farm Products'' (13–1023). ''Funeral Directors'' (11–9061) was moved to the Management Occupations major group.

In the Computer and Mathematical Occupations major group, ''Systems Analysts, Science and Engineering'' and ''System Analysts, All Other'' were aggregated into ''Computer Systems Analysts'' (15–1051). The titles and definitions of ''Computer Software Engineers, Applications'' (15–1031) and ''Computer Software Engineers, Systems Software'' (15–1032) were modified, and ''Mathematical Technicians'' (15–3011) was added to the revised SOC.

In the Architecture and Engineering Occupations major group, ''Architectural and Civil Drafters'' and ''Architectural Technicians and Technologists'' were aggregated into ''Architectural and Civil Drafters'' (17–3011), and the definitions of ''Computer Hardware Engineers'' (17–2061), ''Environmental Engineers'' (17–2081), and ''Engineering Technicians, Except Drafters, All Other'' (17–3029) were modified.

In the Life, Physical, and Social Science Occupations major group, ''Epidemiologists'' (19–1041) was added as a detailed occupation. Medical Physicists was added as an associated title under ''Medical Scientists, All Other'' (19–1049), and Public Health Policy Analysts was added as an associated title under ''Social Scientists and Related Workers, All Other'' (19–3099).

In the Community and Social Service Occupations major group, the title of ''Alcohol and Substance Abuse Counselors'' was changed to ''Substance Abuse and Behavioral Disorder Counselors'' (21–1011) and the definition was modified. ''Marriage and Family Counselors and Therapists'' was retitled ''Marriage and Family Therapists'' (21–1013). HIV/AIDS Counselors and ASAT C.O.R.E. (American Society of Alternative Therapists Conscious, Ownership, Retrieval/Release, and Engage) Counselors were added as associated titles under ''Counselors, All Other'' (21–1019). The definition of ''Mental Health and Substance Abuse Social Workers'' (21–1023) was modified, and ''Health Educators'' (21–1091) was added to the revised SOC.

In the Legal Occupations major group, new minor groups for ''Lawyers, Judges, and Related Workers'' (23–1000) and ''Legal Support Workers'' (23–2000) were created. The title and definition of ''Administrative Law Judges and Hearing Officers'' (23–1021) were modified, and the definitions of ''Lawyers'' (23–1011) and ''Law Clerks'' (23–2092) were also modified. The title of ''Judges and Magistrates'' was changed to ''Judges, Magistrate Judges, and Magistrates'' (23–1023). ''Safety and Health Inspectors and Compliance Officers, Except Construction'' was disaggregated into ''Compliance Officers, Except Agriculture, Construction, Health and Safety, and Transportation'' (13–1031) and ''Financial Examiners'' (13–2061) (in the Business and Financial Operations Occupations major group); ''Occupational Health and Safety Specialists'' (29–9011) (in the Healthcare Practitioner and Technical Occupations major group); and ''Agricultural Inspectors'' (45–2011) (in the Farming, Fishing, and Forestry Occupations major group). ''Construction and Building Inspectors'' (47–4011) was moved to the Construction and Extraction Occupations major group.

In the Education, Training, and Library Occupations major group, ''Library Technicians and Assistants'' was disaggregated into ''Library Technicians'' (25–4031) and ''Library Assistants, Clerical'' (43–4121). ''Library Assistants, Clerical'' was then moved to the Office and Administrative Support Occupations major group. ''Teacher Aides'' (25–9041) was retitled ''Teacher Assistants,'' and the definitions for ''Literacy, Remedial Education, and GED Teachers and Instructors'' (25–3011), ''Librarians'' (25–4021) and ''Special Education Teachers'' (25–2041) were modified. ''Sports and Physical Training Instructors and Coaches'' was aggregated with ''Coaches and Scouts'' (27–2022), in the Arts, Design, Entertainment, Sports, and Media Occupations major group, and ''Educational, Vocational, and School Guidance Counselors'' (21–1012) was moved to the ''Community and Social Services'' major group.

In the Arts, Design, Entertainment, Sports, and Media Occupations major group, new minor groups for ''Art and Design Workers'' (27–1000), ''Entertainers and Performers, Sports and Related Workers'' (27–2000), ''Media and Communication Workers'' (27–3000), and ''Media and Communication Equipment Workers'' (27–4000) were created. ''Dancers and Choreographers'' was disaggregated into ''Dancers'' (27–2031) and ''Choreographers'' (27–2032). ''Announcers'' was disaggregated into

''Radio and Television Announcers'' (27–3011) and ''Public Address System and Other Announcers'' (27–3012).

The Health Occupations major group was disaggregated into Healthcare Practitioner and Technical Occupations (29–0000) and Healthcare Support Occupations (31–0000); see the revised structure in Appendix A for details of this disaggregation. The definition of ''Cardiovascular Technologists and Technicians'' (29–2031) was modified. ''Health Service Coordinators'' was deleted as a detailed occupation and added as an associated title under ''Healthcare Practitioner and Technical occupations, All Other'' (29–9099); associated titles added under this occupation were Hearing Aid Specialist, Electroneurodiagnostic Technologists, Optometric and Ophthalmic Technicians, and Dialysis Technicians. The title ''Physical Therapy Assistants'' was changed to ''Physical Therapist Assistants'' (31–2021), and the definition of ''Medical Assistants'' (31–9092) was modified. ''Phlebotomists'' was converted to an associated title under ''Healthcare Support Occupations, All Other'' (31–9099).

In the Protective Service Occupations major group, ''United States Marshals'' was deleted from the revised SOC.

In the Food Preparation and Serving Related Occupations major group, no significant changes were made since the July 7, 1997, **Federal Register** notice.

The title of the Buildings and Grounds Maintenance Occupations major group was changed to Building and Grounds Cleaning and Maintenance Occupations. ''Landscaping and Groundskeeping Laborers'' was retitled ''Landscaping and Groundskeeping Workers'' (37–3011).

In the Personal Care and Service Occupations major group, ''Skin Care Specialists'' (39–5094) and ''Fitness Trainers and Aerobics Instructors'' (39–9041) were added to the revised SOC, the definition of ''Personal and Home Care Aides'' (39–9031) was modified, and ''Masseuses and Masseurs'' was retitled ''Massage Therapists'' (39–9021).

In the Sales and Related Occupations major group, no significant changes were made since the July 7, 1997, **Federal Register** notice.

The title of the Office and Administration Occupations major group was changed to Office and Administrative Support Occupations. ''Tellers and Customer Service Representatives, Financial Institutions'' was disaggregated into ''Tellers'' (43–3061), ''Customer Service Representatives'' (43–4051), and ''New Accounts Clerks'' (43–4141). ''Customer Service Representatives, Except Sales and Financial'' was deleted. ''Court Reporters, Medical Transcriptionists, and Stenographers'' was disaggregated into ''Court Reporters'' (23–2091) in the Legal Occupations major group, and ''Medical Transcriptionists'' (31–9094), in the Health Care Support Occupations major group. The definition of ''Computer Operators'' (43–9011) was modified. ''Insurance Claims Adjusters, Examiners, and Investigators'' (13–1071) and ''Insurance Appraisers, Auto Damage'' (13–1072) were moved to the Business and Financial Operations Occupations major group.

In the Farming, Fishing, and Forestry Occupations major group, ''Veterinary Assistants and Nonfarm Animal Caretakers'' was disaggregated into ''Veterinary Assistants and Laboratory Animal Caretakers'' and ''Nonfarm Animal Caretakers.'' ''Veterinary Assistants and Laboratory Animal Caretakers'' (31–9096) was moved to the Healthcare Support Occupations major group, while ''Nonfarm Animal Caretakers'' (39–2021) was moved to the Personal Care and Service Occupations major group, along with ''Animal Trainers'' (39–2011). ''Logging Equipment Operators'' (45–4022) was added to the revised SOC.

In the Construction and Extraction Occupations major group, ''Construction Laborers'' was retitled ''Construction Craft Laborers'' (47–2061). This and the following definitions were modified: ''Helpers—Brickmasons, Blockmasons, Stonemasons, and Tile and Marble Setters'' (47–3011), ''Helpers—Carpenters'' (47–3012), ''Helpers—Electricians'' (47–3013), ''Helpers—Painters, Paperhangers, Plasterers, and Stucco Masons'' (47–3014), ''Helpers—Pipelayers, Plumbers, Pipefitters, and Steamfitters'' (47–3015), and ''Helpers—Roofers'' (47–3016). ''Construction Equipment Operators'' was disaggregated into three occupations: ''Paving, Surfacing, and Tamping Equipment Operators'' (47–2071), ''Pile-Driver Operators'' (47–2072) and ''Operating Engineers and Other Construction Equipment operators'' (47–2073). ''Security and Fire Alarm Systems Installers'' (49–2098) was moved to the Installation, Maintenance, and Repair Occupations major group.

In the Installation, Maintenance, and Repair Occupations major group, ''Electrical and Electronics Installers and Repairers, Transportation Equipment'' was disaggregated into ''Electrical and Electronics Installers and Repairers, Transportation Equipment'' (49–2093) and ''Electronic Equipment Installers and Repairers, Motor Vehicles'' (49–2096). ''Electrical and Electronics Repairers, Commercial and Industrial Equipment'' was disaggregated into ''Electrical and Electronics Repairers, Industrial Equipment'' (49–2094) and ''Electrical and Electronics Repairers, Powerhouse, Substation, and Relay'' (49–2095). Jet-ski Mechanics was added as an associated title under ''Small Engine Mechanics'' (49–3033). ''Biomedical Engineering Technicians'' and ''BMET'' were added as associated titles under ''Medical Equipment Repairers'' (49–9062). ''Commercial Divers'' (49–9092) was added as a new detailed occupation.

In the Production Occupations major group, ''Molders, Shapers, and Coremakers'' was retitled ''Foundry Mold and Coremakers'' (51–4071). ''Desktop Publishers'' (43–9031) was moved to the Office and Administrative Support Occupations major group.

In the Transportation and Material Moving Occupations major group, the definitions of the following detailed occupations were modified: ''Commercial Pilots'' (53–2012), ''Drivers/Sales Workers'' (53–3031), ''Truck Drivers, Light or Delivery Services'' (53–3033), and ''Industrial Truck and Tractor Operators'' (53–7051). ''Elevator Operators'' was deleted from the revised SOC.

In the Military Specific Occupations major group, no significant changes were made since the July 7, 1997, **Federal Register** notice.

Next Steps in Process

After analyzing comments generated by this **Federal Register** notice, OMB plans to publish its final decisions for the 1998 SOC in the **Federal Register** by the end of 1998.

The SOCRPC also will begin preparing the 1998 Standard Occupational Classification Manual for publication. Committee members will be completing definitions, assigning associated titles, and developing cross lists to existing systems. The SOCRPC is planning a process for ensuring that the implementation of the 1998 SOC is comparable across Federal agencies, including regularly scheduled interagency communication to ensure that there is a smooth Federal transition to the 1998 SOC.

It has been eighteen years since the last revision of the SOC. The SOC Revision Policy Committee urges the Office of Management and Budget to establish a new standing committee, the Standard Occupational Classification Review Committee, to ensure that the 1998 SOC remains appropriate to the world of work.

The new committee should meet twice per year to review proposals for changes in the SOC, such as the definition and placement of new occupations. In addition, it should provide timely advice to the Bureau of the Census during its 2000 Census occupations coding operation, particularly with respect to the proper classification of unfamiliar job descriptions and job titles. The committee should also undertake a thorough review of the entire SOC once per decade, perhaps in conjunction with preparations for the decennial census.

Because of this broad role, we recommend that the committee consist of representatives of the following agencies:

Department of Commerce, Bureau of the Census
Department of Defense, Defense Manpower Data Center
Department of Education
Department of Health and Human Services, Bureau of Health Professions
Department of Labor, Bureau of Labor Statistics
Department of Labor, Employment and Training Administration
Equal Employment Opportunity Commission
National Occupational Information Coordinating Committee
National Science Foundation
Office of Management and Budget (ex-officio)
Office of Personnel Management

We recommend that the Bureau of Labor Statistics chair the committee and staff its secretariat, and that it be given sufficient authority to carry out its secretariat duties, such as organizing working groups to make recommendations for changes.

APPENDIX A: Proposed 1998 SOC Detailed Occupations

11–0000 MANAGEMENT OCCUPATIONS
- 11–1000 TOP EXECUTIVES
  - 11–1010 Chief Executives
    - 11–1011 Chief Executives
  - 11–1020 General and Operations Managers
    - 11–1021 General and Operations Managers
  - 11–1030 Legislators
    - 11–1031 Legislators
- 11–2000 ADVERTISING, MARKETING, PROMOTIONS, PUBLIC RELATIONS, AND SALES MANAGERS
  - 11–2010 Advertising and Promotions Managers
    - 11–2011 Advertising and Promotions Managers
  - 11–2020 Marketing and Sales Managers
    - 11–2021 Marketing Managers
    - 11–2022 Sales Managers
  - 11–2030 Public Relations Managers
    - 11–2031 Public Relations Managers
- 11–3000 OPERATIONS SPECIALTIES MANAGERS
  - 11–3010 Administrative Services Managers
    - 11–3011 Administrative Services Managers
  - 11–3020 Computer and Information Systems Managers
    - 11–3021 Computer and Information Systems Managers
  - 11–3030 Financial Managers
    - 11–3031 Financial Managers
  - 11–3040 Human Resources Managers
    - 11–3041 Compensation and Benefits Managers
    - 11–3042 Training and Development Managers
    - 11–3049 Human Resources Managers, All Other
  - 11–3050 Industrial Production Managers
    - 11–3051 Industrial Production Managers
  - 11–3060 Purchasing Managers
    - 11–3061 Purchasing Managers
  - 11–3070 Transportation, Storage, and Distribution Managers
    - 11–3071 Transportation, Storage, and Distribution Managers
- 11–9000 OTHER MANAGEMENT OCCUPATIONS
  - 11–9010 Agricultural Managers
    - 11–9011 Farm, Ranch, and Other Agricultural Managers
    - 11–9012 Farmers and Ranchers
  - 11–9020 Construction Managers
    - 11–9021 Construction Managers
  - 11–9030 Education Administrators
    - 11–9031 Education Administrators, Preschool and Child Care Center/Program
    - 11–9032 Education Administrators, Elementary and Secondary School
    - 11–9033 Education Administrators, Postsecondary
    - 11–9039 Education Administrators, All Other
  - 11–9040 Engineering Managers
    - 11–9041 Engineering Managers
  - 11–9050 Food Service Managers
    - 11–9051 Food Service Managers
  - 11–9060 Funeral Directors
    - 11–9061 Funeral Directors
  - 11–9070 Lodging Managers
    - 11–9071 Lodging Managers
  - 11–9080 Medical and Health Services Managers
    - 11–9081 Medical and Health Services Managers
  - 11–9110 Natural Sciences Managers
    - 11–9111 Natural Sciences Managers

11–9120 Postmasters and Mail Superintendents
11–9121 Postmasters and Mail Superintendents
11–9130 Property, Real Estate, and Community Association Managers
11–9131 Property, Real Estate, and Community Association Managers
11–9140 Social and Community Service Managers
11–9141 Social and Community Service Managers
11–9190 Miscellaneous Managers
11–9199 Managers, All Other
13–0000 BUSINESS AND FINANCIAL OPERATIONS OCCUPATIONS
13–1000 BUSINESS OPERATIONS SPECIALISTS
13–1010 Agents and Business Managers of Artists, Performers, and Athletes
13–1011 Agents and Business Managers of Artists, Performers, and Athletes
13–1020 Buyers and Purchasing Agents
13–1021 Purchasing Agents and Buyers, Farm Products
13–1022 Wholesale and Retail Buyers, Except Farm Products
13–1023 Purchasing Agents, Except Wholesale, Retail, and Farm Products
13–1030 Compliance Officers, Except Agriculture, Construction, Health and Safety, and Transportation
13–1031 Compliance Officers, Except Agriculture, Construction, Health and Safety, and Transportation
13–1040 Cost Estimators
13–1041 Cost Estimators
13–1050 Emergency Management Specialists
13–1051 Emergency Management Specialists
13–1060 Human Resources, Training, and Labor Relations Specialists
13–1061 Employment, Recruitment, and Placement Specialists
13–1062 Compensation, Benefits, and Job Analysis Specialists
13–1063 Training and Development Specialists
13–1069 Human Resources, Training, and Labor Relations Specialists, All Other
13–1070 Insurance Claims Adjusters, Appraisers, Examiners, and Investigators
13–1071 Insurance Claims Adjusters, Examiners, and Investigators
13–1072 Insurance Appraisers, Auto Damage
13–1080 Logisticians
13–1081 Logisticians
13–1110 Management Analysts
13–1111 Management Analysts
13–1120 Meeting and Convention Planners
13–1121 Meeting and Convention Planners
13–1190 Miscellaneous Business Operations Specialists
13–1199 Business Operations Specialists, All Other
13–2000 FINANCIAL SPECIALISTS
13–2010 Accountants and Auditors
13–2011 Accountants and Auditors
13–2020 Assessors and Real Estate Appraisers
13–2021 Assessors and Real Estate Appraisers
13–2030 Budget Analysts
13–2031 Budget Analysts
13–2040 Credit Analysts
13–2041 Credit Analysts
13–2050 Financial Analysts and Advisors
13–2051 Financial Analysts
13–2052 Personal Financial Advisors
13–2053 Insurance Underwriters
13–2060 Financial Examiners
13–2061 Financial Examiners
13–2070 Loan Counselors and Officers
13–2071 Loan Counselors
13–2072 Loan Officers
13–2080 Tax Examiners, Collectors, Preparers, and Revenue Agents
13–2081 Tax Examiners, Collectors, and Revenue Agents
13–2082 Tax Preparers
13–2090 Miscellaneous Financial Specialists
13–2099 Financial Specialists, All Other
15–0000 COMPUTER AND MATHEMATICAL OCCUPATIONS
15–1000 COMPUTER SPECIALISTS
15–1010 Computer and Information Scientists, Research
15–1011 Computer and Information Scientists, Research
15–1020 Computer Programmers
15–1021 Computer Programmers
15–1030 Computer Software Engineers
15–1031 Computer Software Engineers, Applications
15–1032 Computer Software Engineers, Systems Software
15–1040 Computer Support Specialists
15–1041 Computer Support Specialists
15–1050 Computer Systems Analysts
15–1051 Computer Systems Analysts
15–1060 Database Administrators
15–1061 Database Administrators

15–1070 Network and Computer Systems Administrators
15–1071 Network and Computer Systems Administrators
15–1080 Network Systems and Data Communications Analysts
15–1081 Network Systems and Data Communications Analysts
15–1090 Miscellaneous Computer Specialists
15–1099 Computer Specialists, All Other
15–2000 MATHEMATICAL SCIENTISTS
15–2010 Actuaries
15–2011 Actuaries
15–2020 Mathematicians
15–2021 Mathematicians
15–2030 Operations Researchers and Analysts
15–2031 Operations Researchers and Analysts
15–2040 Statisticians
15–2041 Statisticians
15–2090 Miscellaneous Mathematical Scientists
15–2099 Mathematical Scientists, All Other
15–3000 MATHEMATICAL TECHNICIANS
15–3010 Mathematical Technicians
15–3011 Mathematical Technicians
17–0000 ARCHITECTURE AND ENGINEERING OCCUPATIONS
17–1000 ARCHITECTS, SURVEYORS, AND CARTOGRAPHERS
17–1010 Architects, Except Naval
17–1011 Architects, Except Landscape and Naval
17–1012 Landscape Architects
17–1020 Surveyors, Cartographers, and Photogrammetrists
17–1021 Cartographers and Photogrammetrists
17–1022 Surveyors
17–2000 ENGINEERS
17–2010 Aerospace Engineers
17–2011 Aerospace Engineers
17–2020 Agricultural Engineers
17–2021 Agricultural Engineers
17–2030 Biomedical Engineers
17–2031 Biomedical Engineers
17–2040 Chemical Engineers
17–2041 Chemical Engineers
17–2050 Civil Engineers
17–2051 Civil Engineers
17–2060 Computer Hardware Engineers
17–2061 Computer Hardware Engineers
17–2070 Electrical and Electronics Engineers
17–2071 Electrical Engineers
17–2072 Electronics Engineers, Except Computer
17–2080 Environmental Engineers
17–2081 Environmental Engineers
17–2110 Industrial Engineers, Including Health and Safety
17–2111 Health and Safety Engineers, Except Mining Safety Engineers and Inspectors
17–2112 Industrial Engineers
17–2120 Marine Engineers and Naval Architects
17–2121 Marine Engineers and Naval Architects
17–2130 Materials Engineers
17–2131 Materials Engineers
17–2140 Mechanical Engineers
17–2141 Mechanical Engineers
17–2150 Mining and Geological Engineers, Including Mining Safety Engineers
17–2151 Mining and Geological Engineers, Including Mining Safety Engineers
17–2160 Nuclear Engineers
17–2161 Nuclear Engineers
17–2170 Petroleum Engineers
17–2171 Petroleum Engineers
17–2190 Miscellaneous Engineers
17–2199 Engineers, All Other
17–3000 DRAFTERS, ENGINEERING, AND MAPPING TECHNICIANS
17–3010 Drafters
17–3011 Architectural and Civil Drafters
17–3012 Electrical and Electronics Drafters
17–3013 Mechanical Drafters
17–3019 Drafters, All Other
17–3020 Engineering Technicians, Except Drafters
17–3021 Aerospace Engineering and Operations Technicians
17–3022 Civil Engineering Technicians
17–3023 Electrical and Electronic Engineering Technicians
17–3024 Electro-mechanical Technicians
17–3025 Environmental Engineering Technicians
17–3026 Industrial Engineering Technicians

17–3027 Mechanical Engineering Technicians
17–3029 Engineering Technicians, Except Drafters, All Other
17–3030 Surveying and Mapping Technicians
17–3031 Surveying and Mapping Technicians
19–0000 LIFE, PHYSICAL, AND SOCIAL SCIENCE OCCUPATIONS
19–1000 LIFE SCIENTISTS
19–1010 Agricultural and Food Scientists
19–1011 Animal Scientists
19–1012 Food Scientists and Technologists
19–1013 Soil and Plant Scientists
19–1020 Biological Scientists
19–1021 Biochemists and Biophysicists
19–1022 Microbiologists
19–1023 Zoologists and Wildlife Biologists
19–1029 Biological Scientists, All Other
19–1030 Conservation Scientists and Foresters
19–1031 Conservation Scientists
19–1032 Foresters
19–1040 Medical Scientists
19–1041 Epidemiologists
19–1049 Medical Scientists, All Other
19–1090 Miscellaneous Life Scientists
19–1099 Life Scientists, All Other
19–2000 PHYSICAL SCIENTISTS
19–2010 Astronomers and Physicists
19–2011 Astronomers
19–2012 Physicists
19–2020 Atmospheric and Space Scientists
19–2021 Atmospheric and Space Scientists
19–2030 Chemists and Materials Scientists
19–2031 Chemists
19–2032 Materials Scientists
19–2040 Environmental Scientists and Geoscientists
19–2041 Environmental Scientists
19–2042 Geoscientists, Except Hydrologists and Geographers
19–2043 Hydrologists
19–2090 Miscellaneous Physical Scientists
19–2099 Physical Scientists, All Other
19–3000 SOCIAL SCIENTISTS AND RELATED WORKERS
19–3010 Economists
19–3011 Economists
19–3020 Market and Survey Researchers
19–3021 Market Research Analysts
19–3022 Survey Researchers
19–3030 Psychologists
19–3031 Clinical, Counseling, and School Psychologists
19–3032 Industrial-organizational Psychologists
19–3039 Psychologists, All Other
19–3040 Sociologists
19–3041 Sociologists
19–3050 Urban and Regional Planners
19–3051 Urban and Regional Planners
19–3090 Miscellaneous Social Scientists and Related Workers
19–3091 Anthropologists and Archeologists
19–3092 Geographers
19–3093 Historians
19–3094 Political Scientists
19–3099 Social Scientists and Related Workers, All Other
19–4000 LIFE, PHYSICAL, AND SOCIAL SCIENCE TECHNICIANS
19–4010 Agricultural and Food Science Technicians
19–4011 Agricultural and Food Science Technicians
19–4020 Biological Technicians
19–4021 Biological Technicians
19–4030 Chemical Technicians
19–4031 Chemical Technicians
19–4040 Geological and Petroleum Technicians
19–4041 Geological and Petroleum Technicians
19–4050 Nuclear Technicians
19–4051 Nuclear Technicians
19–4060 Social Science Research Assistants
19–4061 Social Science Research Assistants
19–4090 Miscellaneous Life, Physical, and Social Science Technicians
19–4091 Environmental Science Technicians
19–4092 Forensic Science Technicians
19–4093 Forest and Conservation Technicians
19–4099 Life, Physical, and Social Science Technicians, All Other

21–0000 COMMUNITY AND SOCIAL SERVICES OCCUPATIONS
- 21–1000 COUNSELORS, SOCIAL WORKERS, AND OTHER COMMUNITY AND SOCIAL SERVICE SPECIALISTS
  - 21–1010 Counselors
    - 21–1011 Substance Abuse and Behavioral Disorder Counselors
    - 21–1012 Educational, Vocational, and School Counselors
    - 21–1013 Marriage and Family Therapists
    - 21–1014 Mental Health Counselors
    - 21–1015 Rehabilitation Counselors
    - 21–1019 Counselors, All Other
  - 21–1020 Social Workers
    - 21–1021 Child, Family, and School Social Workers
    - 21–1022 Medical and Public Health Social Workers
    - 21–1023 Mental Health and Substance Abuse Social Workers
    - 21–1029 Social Workers, All Other
  - 21–1090 Miscellaneous Psychosocial, Community, and Behavioral Specialists
    - 21–1091 Health Educators
    - 21–1092 Probation Officers and Correctional Treatment Specialists
    - 21–1093 Social and Human Service Assistants
    - 21–1099 Psychosocial, Community, and Behavioral Specialists, All Other
- 21–2000 RELIGIOUS WORKERS
  - 21–2010 Clergy
    - 21–2011 Clergy
  - 21–2020 Directors, Religious Activities and Education
    - 21–2021 Directors, Religious Activities and Education
  - 21–2090 Miscellaneous Religious Workers
    - 21–2099 Religious Workers, All Other

23–0000 LEGAL OCCUPATIONS
- 23–1000 LAWYERS, JUDGES, AND RELATED WORKERS
  - 23–1010 Lawyers
    - 23–1011 Lawyers
  - 23–1020 Judges, Magistrates, and Other Judicial Workers
    - 23–1021 Administrative Law Judges and Hearing Officers
    - 23–1022 Arbitrators, Mediators, and Conciliators
    - 23–1023 Judges, Magistrate Judges, and Magistrates
- 23–2000 LEGAL SUPPORT WORKERS
  - 23–2010 Paralegals and Legal Assistants
    - 23–2011 Paralegals and Legal Assistants
  - 23–2090 Miscellaneous Legal Support Workers
    - 23–2091 Court Reporters
    - 23–2092 Law Clerks
    - 23–2093 Title Examiners, Abstractors, and Searchers
    - 23–2099 Legal Support Workers, All Other

25–0000 EDUCATION, TRAINING, AND LIBRARY OCCUPATIONS
- 25–1000 TEACHERS, POSTSECONDARY
  - 25–1010 Business Teachers, Postsecondary
    - 25–1011 Business Teachers, Postsecondary
  - 25–1020 Math and Computer Teachers, Postsecondary
    - 25–1021 Computer Science Teachers, Postsecondary
    - 25–1022 Mathematical Science Teachers, Postsecondary
  - 25–1030 Engineering and Architecture Teachers, Postsecondary
    - 25–1031 Architecture Teachers, Postsecondary
    - 25–1032 Engineering Teachers, Postsecondary
  - 25–1040 Life Sciences Teachers, Postsecondary
    - 25–1041 Agricultural Sciences Teachers, Postsecondary
    - 25–1042 Biological Science Teachers, Postsecondary
    - 25–1043 Forestry and Conservation Science Teachers, Postsecondary
  - 25–1050 Physical Sciences Teachers, Postsecondary
    - 25–1051 Atmospheric, Earth, Marine, and Space Sciences Teachers, Postsecondary
    - 25–1052 Chemistry Teachers, Postsecondary
    - 25–1053 Environmental Science Teachers, Postsecondary
    - 25–1054 Physics Teachers, Postsecondary
  - 25–1060 Social Sciences Teachers, Postsecondary
    - 25–1061 Anthropology and Archeology Teachers, Postsecondary
    - 25–1062 Area, Ethnic, and Cultural Studies Teachers, Postsecondary
    - 25–1063 Economics Teachers, Postsecondary
    - 25–1064 Geography Teachers, Postsecondary
    - 25–1065 Political Science Teachers, Postsecondary
    - 25–1066 Psychology Teachers, Postsecondary
    - 25–1067 Sociology Teachers, Postsecondary
    - 25–1069 Social Sciences Teachers, Postsecondary, All Other
  - 25–1070 Health Teachers, Postsecondary
    - 25–1071 Health Specialties Teachers, Postsecondary
    - 25–1072 Nursing Instructors and Teachers, Postsecondary
  - 25–1080 Education and Library Science Teachers, Postsecondary
    - 25–1081 Education Teachers, Postsecondary
    - 25–1082 Library Science Teachers, Postsecondary

25–1110 Law, Criminal Justice, and Social Services Teachers, Postsecondary
25–1111 Criminal Justice and Law Enforcement Teachers, Postsecondary
25–1112 Law Teachers, Postsecondary
25–1113 Social Work Teachers, Postsecondary
25–1120 Arts, Communications, and Humanities Teachers, Postsecondary
25–1121 Art, Drama, and Music Teachers, Postsecondary
25–1122 Communications Teachers, Postsecondary
25–1123 English Language and Literature Teachers, Postsecondary
25–1124 Foreign Language and Literature Teachers, Postsecondary
25–1125 History Teachers, Postsecondary
25–1126 Philosophy and Religion Teachers, Postsecondary
25–1190 Miscellaneous Postsecondary Teachers
25–1191 Graduate Assistants, Teaching
25–1192 Home Economics Teachers, Postsecondary
25–1193 Recreation and Fitness Studies Teachers, Postsecondary
25–1199 Postsecondary Teachers, All Other
25–2000 TEACHERS, PRIMARY, SECONDARY, AND SPECIAL EDUCATION
25–2010 Teachers, Preschool and Kindergarten
25–2011 Teachers, Preschool
25–2012 Teachers, Kindergarten
25–2020 Teachers, Elementary and Middle School
25–2021 Teachers, Elementary School
25–2022 Teachers, Middle School
25–2030 Teachers, Secondary School
25–2031 Teachers, Secondary School
25–2040 Special Education Teachers
25–2041 Special Education Teachers
25–3000 OTHER TEACHERS AND INSTRUCTORS
25–3010 Literacy, Remedial Education, and GED Teachers and Instructors
25–3011 Literacy, Remedial Education, and GED Teachers and Instructors
25–3020 Self-enrichment Education Teachers
25–3021 Self-enrichment Education Teachers
25–3030 Vocational Education and Training Teachers and Instructors
25–3031 Vocational Education and Training Teachers and Instructors
25–3090 Miscellaneous Teachers and Instructors
25–3099 Teachers and Instructors, All Other
25–4000 LIBRARIANS, CURATORS, AND ARCHIVISTS
25–4010 Archivists, Curators, and Museum Technicians
25–4011 Archivists
25–4012 Curators
25–4013 Museum Technicians and Conservators
25–4020 Librarians
25–4021 Librarians
25–4030 Library Technicians
25–4031 Library Technicians
25–9000 OTHER EDUCATION, TRAINING, AND LIBRARY OCCUPATIONS
25–9010 Audio-visual Collections Specialists
25–9011 Audio-visual Collections Specialists
25–9020 Farm and Home Management Advisors
25–9021 Farm and Home Management Advisors
25–9030 Instructional Coordinators
25–9031 Instructional Coordinators
25–9040 Teacher Assistants
25–9041 Teacher Assistants
25–9090 Miscellaneous Education, Training, and Library Workers
25–9099 Education, Training, and Library Workers, All Other
27–0000 ARTS, DESIGN, ENTERTAINMENT, SPORTS, AND MEDIA OCCUPATIONS
27–1000 ART AND DESIGN WORKERS
27–1010 Artists and Related Workers
27–1011 Art Directors
27–1012 Craft Artists
27–1013 Fine Artists, Including Painters, Sculptors, and Illustrators
27–1014 Multi-Media Artists and Animators
27–1019 Artists and Related Workers, All Other
27–1020 Designers
27–1021 Commercial and Industrial Designers
27–1022 Fashion Designers
27–1023 Floral Designers
27–1024 Graphic Designers
27–1025 Interior Designers
27–1026 Merchandise Displayers and Window Trimmers
27–1027 Set and Exhibit Designers
27–1029 Designers, All Other
27–2000 ENTERTAINERS AND PERFORMERS, SPORTS AND RELATED WORKERS
27–2010 Actors, Producers, and Directors
27 2011 Actors

27–2012 Producers and Directors
27–2020 Athletes, Coaches, Umpires, and Related Workers
27–2021 Athletes and Sports Competitors
27–2022 Coaches and Scouts
27–2023 Umpires, Referees, and Other Sports Officials
27–2030 Dancers and Choreographers
27–2031 Dancers
27–2032 Choreographers
27–2040 Musicians, Singers, and Related Workers
27–2041 Music Directors and Composers
27–2042 Musicians and Singers
27–2090 Miscellaneous Entertainers and Performers, Sports and Related Workers
27–2099 Entertainers and Performers, Sports and Related Workers, All Other
27–3000 MEDIA AND COMMUNICATION WORKERS
27–3010 Announcers
27–3011 Radio and Television Announcers
27–3012 Public Address System and Other Announcers
27–3020 News Analysts, Reporters and Correspondents
27–3021 Broadcast News Analysts
27–3022 Reporters and Correspondents
27–3030 Public Relations Specialists
27–3031 Public Relations Specialists
27–3040 Writers and Editors
27–3041 Editors
27–3042 Technical Writers
27–3043 Writers and Authors
27–3090 Miscellaneous Media and Communication Workers
27–3091 Interpreters and Translators
27–3099 Media and Communication Workers, All Other
27–4000 MEDIA AND COMMUNICATION EQUIPMENT WORKERS
27–4010 Broadcast and Sound Engineering Technicians and Radio Operators
27–4011 Broadcast Technicians
27–4012 Radio Operators
27–4013 Sound Engineering Technicians
27–4020 Photographers
27–4021 Photographers
27–4030 Television, Video, and Motion Picture Camera Operators and Editors
27–4031 Camera Operators, Television, Video, and Motion Picture
27–4032 Film and Video Editors
27–4090 Miscellaneous Media and Communication Equipment Workers
27–4099 Media and Communication Equipment Workers, All Other
29–0000 HEALTHCARE PRACTITIONERS AND TECHNICAL OCCUPATIONS
29–1000 HEALTH DIAGNOSING AND TREATING PRACTITIONERS
29–1010 Chiropractors
29–1011 Chiropractors
29–1020 Dentists
29–1021 Dentists, General
29–1022 Oral and Maxillofacial Surgeons
29–1023 Orthodontists
29–1024 Prosthodontists
29–1029 Dentists, All Other Specialists
29–1030 Dietitians and Nutritionists
29–1031 Dietitians and Nutritionists
29–1040 Optometrists
29–1041 Optometrists
29–1050 Pharmacists
29–1051 Pharmacists
29–1060 Physicians and Surgeons
29–1061 Anesthesiologists
29–1062 Family and General Practitioners
29–1063 Internists, General
29–1064 Obstetricians and Gynecologists
29–1065 Pediatricians, General
29–1066 Psychiatrists
29–1067 Surgeons
29–1069 Physicians and Surgeons, All Other
29–1070 Physician Assistants
29–1071 Physician Assistants
29–1080 Podiatrists
29–1081 Podiatrists
29–1110 Registered Nurses
29–1111 Registered Nurses
29–1120 Therapists
29–1121 Audiologists
29–1122 Occupational Therapists
29–1123 Physical Therapists

29–1124 Radiation Therapists
29–1125 Recreational Therapists
29–1126 Respiratory Therapists
29–1127 Speech-language Pathologists
29–1129 Therapists, All Other
29–1130 Veterinarians
29–1131 Veterinarians
29–1190 Miscellaneous Health Diagnosing and Treating Practitioners
29–1199 Health Diagnosing and Treating Practitioners, All Other
29–2000 HEALTH TECHNOLOGISTS AND TECHNICIANS
29–2010 Clinical Laboratory Technologists and Technicians
29–2011 Medical and Clinical Laboratory Technologists
29–2012 Medical and Clinical Laboratory Technicians
29–2020 Dental Hygienists
29–2021 Dental Hygienists
29–2030 Diagnostic Related Technologists and Technicians
29–2031 Cardiovascular Technologists and Technicians
29–2032 Diagnostic Medical Sonographers
29–2033 Nuclear Medicine Technologists
29–2034 Radiologic Technologists and Technicians
29–2040 Emergency Medical Technicians and Paramedics
29–2041 Emergency Medical Technicians and Paramedics
29–2050 Health Diagnosing and Treating Practitioner Support Technicians
29–2051 Dietetic Technicians
29–2052 Pharmacy Technicians
29–2053 Psychiatric Technicians
29–2054 Respiratory Therapy Technicians
29–2055 Surgical Technologists
29–2056 Veterinary Technologists and Technicians
29–2060 Licensed Practical and Licensed Vocational Nurses
29–2061 Licensed Practical and Licensed Vocational Nurses
29–2070 Medical Records and Health Information Technicians
29–2071 Medical Records and Health Information Technicians
29–2080 Opticians, Dispensing
29–2081 Opticians, Dispensing
29–2090 Miscellaneous Health Technologists and Technicians
29–2091 Orthotists and Prosthetists
29–2099 Health Technologists and Technicians, All Other
29–9000 OTHER HEALTHCARE PRACTITIONERS AND TECHNICAL OCCUPATIONS
29–9010 Occupational Health and Safety Specialists and Technicians
29–9011 Occupational Health and Safety Specialists
29–9012 Occupational Health and Safety Technicians
29–9090 Miscellaneous Healthcare Practitioners and Technical Workers, All Other
29–9091 Athletic Trainers
29–9099 Healthcare Practitioners and Technical Workers, All Other
31–0000 HEALTHCARE SUPPORT OCCUPATIONS
31–1000 NURSING, PSYCHIATRIC, AND HOME HEALTH AIDES
31–1010 Nursing, Psychiatric, and Home Health Aides
31–1011 Home Health Aides
31–1012 Nursing Aides, Orderlies, and Attendants
31–1013 Psychiatric Aides
31–2000 OCCUPATIONAL AND PHYSICAL THERAPIST ASSISTANTS AND AIDES
31–2010 Occupational Therapist Assistants and Aides
31–2011 Occupational Therapist Assistants
31–2012 Occupational Therapist Aides
31–2020 Physical Therapist Assistants and Aides
31–2021 Physical Therapist Assistants
31–2022 Physical Therapist Aides
31–9000 OTHER HEALTHCARE SUPPORT OCCUPATIONS
31–9090 Miscellaneous Healthcare Support Occupations
31–9091 Dental Assistants
31–9092 Medical Assistants
31–9093 Medical Equipment Preparers
31–9094 Medical Transcriptionists
31–9095 Pharmacy Aides
31–9096 Veterinary Assistants and Laboratory Animal Caretakers
31–9099 Healthcare Support Workers, All Other
33–0000 PROTECTIVE SERVICE OCCUPATIONS
33–1000 SUPERVISORS, PROTECTIVE SERVICE WORKERS
33–1010 First-Line Supervisors/Managers, Law Enforcement Workers
33–1011 First-Line Supervisors/Managers of Correctional Officers
33–1012 First-Line Supervisors/Managers of Police and Detectives
33–1020 First-Line Supervisors/Managers, Fire Fighting and Prevention Workers
33–1021 First-Line Supervisors/Managers of Fire Fighting and Prevention Workers
33–1090 Miscellaneous Supervisors, Protective Service Workers
33–1099 Supervisors, Protective Service Workers, All Other

33–2000 FIREFIGHTING WORKERS
33–2010 Fire Fighters
33–2011 Fire Fighters
33–2020 Fire Inspectors
33–2021 Fire Inspectors and Investigators
33–2022 Forest Fire Inspectors and Prevention Specialists
33–3000 LAW ENFORCEMENT WORKERS
33–3010 Bailiffs, Correctional Officers, and Jailers
33–3011 Bailiffs
33–3012 Correctional Officers and Jailers
33–3020 Detectives and Criminal Investigators
33–3021 Detectives and Criminal Investigators
33–3030 Fish and Game Wardens
33–3031 Fish and Game Wardens
33–3040 Parking Enforcement Workers
33–3041 Parking Enforcement Workers
33–3050 Police Officers
33–3051 Police and Sheriff's Patrol Officers
33–3052 Transit and Railroad Police
33–9000 OTHER PROTECTIVE SERVICE WORKERS
33–9010 Animal Control Workers
33–9011 Animal Control Workers
33–9020 Private Detectives and Investigators
33–9021 Private Detectives and Investigators
33–9030 Security Guards
33–9031 Security Guards
33–9090 Miscellaneous Protective Service Workers
33–9091 Crossing Guards
33–9092 Lifeguards, Ski Patrol, and Other Recreational Protective Service Workers
33–9099 Protective Service Workers, All Other
35–0000 FOOD PREPARATION AND SERVING RELATED OCCUPATIONS
35–1000 SUPERVISORS, FOOD PREPARATION AND FOOD SERVING WORKERS
35–1010 First-Line Supervisors/Managers, Food Preparation and Food Serving Workers
35–1011 Chefs and Head Cooks
35–1012 First-Line Supervisors/Managers of Food Preparation and Serving Workers
35–2000 COOKS AND FOOD PREPARATION WORKERS
35–2010 Cooks
35–2011 Cooks, Fast Food
35–2012 Cooks, Institution and Cafeteria
35–2013 Cooks, Private Household
35–2014 Cooks, Restaurant
35–2015 Cooks, Short Order
35–2019 Cooks, All Other
35–2020 Food Preparation Workers
35–2021 Food Preparation Workers
35–3000 FOOD AND BEVERAGE SERVING WORKERS
35–3010 Bartenders
35–3011 Bartenders
35–3020 Fast Food and Counter Workers
35–3021 Combined Food Preparation and Serving Workers, Including Fast Food
35–3022 Counter Attendants, Cafeteria, Food Concession, and Coffee Shop
35–3030 Waiters and Waitresses
35–3031 Waiters and Waitresses
35–3040 Food Servers, Nonrestaurant
35–3041 Food Servers, Nonrestaurant
35–9000 OTHER FOOD PREPARATION AND SERVING RELATED WORKERS
35–9010 Dining Room and Cafeteria Attendants and Bartender Helpers
35–9011 Dining Room and Cafeteria Attendants and Bartender Helpers
35–9020 Dishwashers
35–9021 Dishwashers
35–9030 Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop
35–9031 Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop
35–9090 Miscellaneous Food Preparation and Serving Related Workers
35–9099 Food Preparation and Serving Related Workers, All Other
37–0000 BUILDING AND GROUNDS CLEANING AND MAINTENANCE OCCUPATIONS
37–1000 SUPERVISORS, BUILDING AND GROUNDS CLEANING AND MAINTENANCE WORKERS
37–1010 First-Line Supervisors/Managers, Building and Grounds Cleaning and Maintenance Workers
37–1011 First-Line Supervisors/Managers of Housekeeping and Janitorial Workers
37–1012 First-Line Supervisors/Managers of Landscaping, Lawn Service, and Groundskeeping Workers
37–2000 BUILDING CLEANING AND PEST CONTROL WORKERS
37–2010 Building Cleaning Workers
37–2011 Janitors and Cleaners, Except Maids and Housekeeping Cleaners
37–2012 Maids and Housekeeping Cleaners
37–2019 Building Cleaning Workers, All Other
37–2020 Pest Control Workers
37–2021 Pest Control Workers

37–3000 GROUNDS MAINTENANCE WORKERS
37–3010 Grounds Maintenance Workers
37–3011 Landscaping and Groundskeeping Workers
37–3012 Pesticide Handlers, Sprayers, and Applicators, Vegetation
37–3013 Tree Trimmers and Pruners
37–3019 Grounds Maintenance Workers, All Other
39–0000 PERSONAL CARE AND SERVICE OCCUPATIONS
39–1000 SUPERVISORS, PERSONAL CARE AND SERVICE WORKERS
39–1010 First-Line Supervisors/Managers of Gaming Workers
39–1011 First-Line Supervisors/Managers of Gaming Workers
39–1020 First-Line Supervisors/Managers of Personal Service Workers
39–1021 First-Line Supervisors/Managers of Personal Service Workers
39–2000 ANIMAL CARE AND SERVICE WORKERS
39–2010 Animal Trainers
39–2011 Animal Trainers
39–2020 Nonfarm Animal Caretakers
39–2021 Nonfarm Animal Caretakers
39–3000 ENTERTAINMENT ATTENDANTS AND RELATED WORKERS
39–3010 Gaming Workers
39–3011 Games of Chance Attendants
39–3012 Gaming Dealers
39–3013 Mutuel Cashiers and Games of Chance Writers
39–3020 Motion Picture Projectionists
39–3021 Motion Picture Projectionists
39–3030 Ushers, Lobby Attendants, and Ticket Takers
39–3031 Ushers, Lobby Attendants, and Ticket Takers
39–3090 Miscellaneous Entertainment Attendants and Related Workers
39–3091 Amusement and Recreation Attendants
39–3092 Costume Attendants
39–3093 Locker Room, Coatroom, and Dressing Room Attendants
39–3099 Entertainment Attendants and Related Workers, All Other
39–4000 FUNERAL SERVICE WORKERS
39–4010 Embalmers
39–4011 Embalmers
39–4020 Funeral Attendants
39–4021 Funeral Attendants
39–5000 PERSONAL APPEARANCE WORKERS
39–5010 Barbers and Cosmetologists
39–5011 Barbers
39–5012 Hairdressers, Hairstylists, and Cosmetologists
39–5090 Miscellaneous Personal Appearance Workers
39–5091 Makeup Artists, Theatrical and Performance
39–5092 Manicurists and Pedicurists
39–5093 Shampooers
39–5094 Skin Care Specialists
39–6000 TRANSPORTATION, TOURISM, AND LODGING ATTENDANTS
39–6010 Baggage Porters, Bellhops, and Concierges
39–6011 Baggage Porters and Bellhops
39–6012 Concierges
39–6020 Tour and Travel Guides
39–6021 Tour Guides and Escorts
39–6022 Travel Guides
39–6030 Transportation Attendants
39–6031 Flight Attendants
39–6032 Transportation Attendants, Except Flight Attendants and Baggage Porters
39–9000 OTHER PERSONAL CARE AND SERVICE WORKERS
39–9010 Child Care Workers
39–9011 Child Care Workers
39–9020 Massage Therapists
39–9021 Massage Therapists
39–9030 Personal and Home Care Aides
39–9031 Personal and Home Care Aides
39–9040 Recreation and Fitness Workers
39–9041 Fitness Trainers and Aerobics Instructors
39–9042 Recreation Workers
39–9050 Residential Advisors
39–9051 Residential Advisors
39–9090 Miscellaneous Personal Care and Service Workers
39–9099 Personal Care and Service Workers, All Other
41–0000 SALES AND RELATED OCCUPATIONS
41–1000 SUPERVISORS, SALES WORKERS
41–1010 First-Line Supervisors/Managers, Sales Workers
41–1011 First-Line Supervisors/Managers of Retail Sales Workers
41–1012 First-Line Supervisors/Managers of Non-Retail Sales Workers
41–2000 RETAIL SALES WORKERS
41–2010 Cashiers

41–2011 Cashiers
41–2020 Counter and Rental Clerks and Parts Salespersons
41–2021 Counter and Rental Clerks
41–2022 Parts Salespersons
41–2030 Retail Salespersons
41–2031 Retail Salespersons
41–3000 SALES REPRESENTATIVES, SERVICES
41–3010 Advertising Sales Agents
41–3011 Advertising Sales Agents
41–3020 Insurance Sales Agents
41–3021 Insurance Sales Agents
41–3030 Securities, Commodities, and Financial Services Sales Agents
41–3031 Securities, Commodities, and Financial Services Sales Agents
41–3040 Travel Agents
41–3041 Travel Agents
41–3090 Miscellaneous Sales Representatives, Services
41–3099 Sales Representatives, Services, All Other
41–4000 SALES REPRESENTATIVES, WHOLESALE AND MANUFACTURING
41–4010 Sales Representatives, Wholesale and Manufacturing
41–4011 Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products
41–4012 Sales Representatives, Wholesale and Manufacturing, Except Technical and Scientific Products
41–9000 OTHER SALES AND RELATED WORKERS
41–9010 Models, Demonstrators, and Product Promoters
41–9011 Demonstrators and Product Promoters
41–9012 Models
41–9020 Real Estate Brokers and Sales Agents
41–9021 Real Estate Brokers
41–9022 Real Estate Sales Agents
41–9030 Sales Engineers
41–9031 Sales Engineers
41–9040 Telemarketers
41–9041 Telemarketers
41–9090 Miscellaneous Sales and Related Workers
41–9091 Door-to-Door Sales Workers, News and Street Vendors, and Related Workers
41–9099 Sales and Related Workers, All Other
43–0000 OFFICE AND ADMINISTRATIVE SUPPORT OCCUPATIONS
43–1000 SUPERVISORS, OFFICE AND ADMINISTRATIVE SUPPORT WORKERS
43–1010 First-Line Supervisors/Managers of Office and Administrative Support Workers
43–1011 First-Line Supervisors/Managers of Office and Administrative Support Workers
43–2000 COMMUNICATIONS EQUIPMENT OPERATORS
43–2010 Switchboard Operators, Including Answering Service
43–2011 Switchboard Operators, Including Answering Service
43–2020 Telephone Operators
43–2021 Telephone Operators
43–2090 Miscellaneous Communications Equipment Operators
43–2099 Communications Equipment Operators, All Other
43–3000 FINANCIAL CLERKS
43–3010 Bill and Account Collectors
43–3011 Bill and Account Collectors
43–3020 Billing and Posting Clerks and Machine Operators
43–3021 Billing and Posting Clerks and Machine Operators
43–3030 Bookkeeping, Accounting, and Auditing Clerks
43–3031 Bookkeeping, Accounting, and Auditing Clerks
43–3040 Payroll and Timekeeping Clerks
43–3041 Payroll and Timekeeping Clerks
43–3050 Procurement Clerks
43–3051 Procurement Clerks
43–3060 Tellers
43–3061 Tellers
43–4000 INFORMATION AND RECORD CLERKS
43–4010 Brokerage Clerks
43–4011 Brokerage Clerks
43–4020 Correspondence Clerks
43–4021 Correspondence Clerks
43–4030 Court, Municipal, and License Clerks
43–4031 Court, Municipal, and License Clerks
43–4040 Credit Authorizers, Checkers, and Clerks
43–4041 Credit Authorizers, Checkers, and Clerks
43–4050 Customer Service Representatives
43–4051 Customer Service Representatives
43–4060 Eligibility Interviewers, Government Programs
43–4061 Eligibility Interviewers, Government Programs
43–4070 File Clerks
43–4071 File Clerks
43–4080 Hotel, Motel, and Resort Desk Clerks
43–4081 Hotel, Motel, and Resort Desk Clerks

43–4110 Interviewers, Except Eligibility and Loan
43–4111 Interviewers, Except Eligibility and Loan
43–4120 Library Assistants, Clerical
43–4121 Library Assistants, Clerical
43–4130 Loan Interviewers and Clerks
43–4131 Loan Interviewers and Clerks
43–4140 New Accounts Clerks
43–4141 New Accounts Clerks
43–4150 Order Clerks
43–4151 Order Clerks
43–4160 Personnel Assistants, Except Payroll and Timekeeping
43–4161 Personnel Assistants, Except Payroll and Timekeeping
43–4170 Receptionists and Information Clerks
43–4171 Receptionists and Information Clerks
43–4180 Reservation and Transportation Ticket Agents and Travel Clerks
43–4181 Reservation and Transportation Ticket Agents and Travel Clerks
43–4190 Miscellaneous Information and Record Clerks
43–4199 Information and Record Clerks, All Other
43–5000 MATERIAL RECORDING, SCHEDULING, DISPATCHING, AND DISTRIBUTING WORKERS
43–5010 Cargo and Freight Agents
43–5011 Cargo and Freight Agents
43–5020 Couriers and Messengers
43–5021 Couriers and Messengers
43–5030 Dispatchers
43–5031 Police, Fire, and Ambulance Dispatchers
43–5032 Dispatchers, Except Police, Fire, and Ambulance
43–5040 Meter Readers, Utilities
43–5041 Meter Readers, Utilities
43–5050 Postal Service Workers
43–5051 Postal Service Clerks
43–5052 Postal Service Mail Carriers
43–5053 Postal Service Mail Sorters, Processors, and Processing Machine Operators
43–5060 Production, Planning, and Expediting Clerks
43–5061 Production, Planning, and Expediting Clerks
43–5070 Shipping, Receiving, and Traffic Clerks
43–5071 Shipping, Receiving, and Traffic Clerks
43–5080 Stock Clerks and Order Fillers
43–5081 Stock Clerks and Order Fillers
43–5110 Weighers, Measurers, Checkers, and Samplers, Recordkeeping
43–5111 Weighers, Measurers, Checkers, and Samplers, Recordkeeping
43–6000 SECRETARIES AND ADMINISTRATIVE ASSISTANTS
43–6010 Secretaries and Administrative Assistants
43–6011 Executive Secretaries and Administrative Assistants
43–6012 Secretaries, Legal
43–6013 Secretaries, Medical
43–6019 Secretaries, All Other
43–9000 OTHER OFFICE AND ADMINISTRATIVE SUPPORT WORKERS
43–9010 Computer Operators
43–9011 Computer Operators
43–9020 Data Entry and Information Processing Workers
43–9021 Data Entry Keyers
43–9022 Word Processors and Typists
43–9030 Desktop Publishers
43–9031 Desktop Publishers
43–9040 Insurance Claims and Policy Processing Clerks
43–9041 Insurance Claims and Policy Processing Clerks
43–9050 Mail Clerks and Mail Machine Operators, Except Postal Service
43–9051 Mail Clerks and Mail Machine Operators, Except Postal Service
43–9060 Office Clerks, General
43–9061 Office Clerks, General
43–9070 Office Machine Operators, Except Computer
43–9071 Office Machine Operators, Except Computer
43–9080 Proofreaders and Copy Markers
43–9081 Proofreaders and Copy Markers
43–9110 Statistical Assistants
43–9111 Statistical Assistants
43–9190 Miscellaneous Office and Administrative Support Workers
43–9199 Office and Administrative Support Workers, All Other
45–0000 FARMING, FISHING, AND FORESTRY OCCUPATIONS
45–1000 SUPERVISORS, FARMING, FISHING, AND FORESTRY WORKERS
45–1010 First-Line Supervisors/Managers of Farming, Fishing, and Forestry Workers
45–1011 First-Line Supervisors/Managers of Farming, Fishing, and Forestry Workers
45–2000 AGRICULTURAL WORKERS
45–2010 Agricultural Inspectors
45–2011 Agricultural Inspectors
45–2020 Animal Breeders

45–2021 Animal Breeders
45–2030 Farm Labor Contractors
45–2031 Farm Labor Contractors
45–2040 Graders and Sorters, Agricultural Products
45–2041 Graders and Sorters, Agricultural Products
45–2090 Miscellaneous Agricultural Workers
45–2091 Agricultural Equipment Operators
45–2092 Farmworkers and Laborers, Crop, Nursery, and Greenhouse
45–2093 Farmworkers, Farm and Ranch Animals
45–2099 Agricultural Workers, All Other
45–3000 FISHING AND HUNTING WORKERS
45–3010 Fishers and Related Fishing Workers
45–3011 Fishers and Related Fishing Workers
45–3020 Hunters and Trappers
45–3021 Hunters and Trappers
45–4000 FOREST, CONSERVATION, AND LOGGING WORKERS
45–4010 Forest and Conservation Workers
45–4011 Forest and Conservation Workers
45–4020 Logging Workers
45–4021 Fallers
45–4022 Logging Equipment Operators
45–4023 Log Graders and Scalers
45–4029 Logging Workers, All Other
45–9000 OTHER FARMING, FISHING, AND FORESTRY WORKERS
45–9090 Miscellaneous Farming, Fishing, and Forestry Workers
45–9099 Farming, Fishing, and Forestry Workers, All Other
47–0000 CONSTRUCTION AND EXTRACTION OCCUPATIONS
47–1000 SUPERVISORS, CONSTRUCTION AND EXTRACTION WORKERS
47–1010 First-Line Supervisors/Managers of Construction Trades and Extraction Workers
47–1011 First-Line Supervisors/Managers of Construction Trades and Extraction Workers
47–2000 CONSTRUCTION TRADES WORKERS
47–2010 Boilermakers
47–2011 Boilermakers
47–2020 Brickmasons, Blockmasons, and Stonemasons
47–2021 Brickmasons and Blockmasons
47–2022 Stonemasons
47–2030 Carpenters
47–2031 Carpenters
47–2040 Carpet, Floor, and Tile Installers and Finishers
47–2041 Carpet Installers
47–2042 Floor Layers, Except Carpet, Wood, and Hard Tiles
47–2043 Floor Sanders and Finishers
47–2044 Tile and Marble Setters
47–2050 Concrete Finishers, Cement Masons, and Terrazzo Workers
47–2051 Concrete Finishers and Cement Masons
47–2052 Terrazzo Workers and Finishers
47–2060 Construction Craft Laborers
47–2061 Construction Craft Laborers
47–2070 Construction Equipment Operators
47–2071 Paving, Surfacing, and Tamping Equipment Operators
47–2072 Pile-Driver Operators
47–2073 Operating Engineers and Other Construction Equipment Operators
47–2080 Drywall Installers, Ceiling Tile Installers, and Tapers
47–2081 Drywall and Ceiling Tile Installers
47–2082 Tapers
47–2110 Electricians
47–2111 Electricians
47–2120 Glaziers
47–2121 Glaziers
47–2130 Insulation Workers
47–2131 Insulation Workers, Floor, Ceiling, and Wall
47–2132 Insulation Workers, Mechanical
47–2140 Painters and Paperhangers
47–2141 Painters, Construction and Maintenance
47–2142 Paperhangers
47–2150 Pipelayers, Plumbers, Pipefitters, and Steamfitters
47–2151 Pipelayers
47–2152 Plumbers, Pipefitters, and Steamfitters
47–2160 Plasterers and Stucco Masons
47–2161 Plasterers and Stucco Masons
47–2170 Reinforcing Iron and Rebar Workers
47–2171 Reinforcing Iron and Rebar Workers
47–2180 Roofers
47–2181 Roofers
47–2210 Sheet Metal Workers
47–2211 Sheet Metal Workers

47–2220 Structural Iron and Steel Workers
47–2221 Structural Iron and Steel Workers
47–3000 HELPERS, CONSTRUCTION TRADES
47–3010 Helpers, Construction Trades
47–3011 Helpers—Brickmasons, Blockmasons, Stonemasons, and Tile and Marble Setters
47–3012 Helpers—Carpenters
47–3013 Helpers—Electricians
47–3014 Helpers—Painters, Paperhangers, Plasterers, and Stucco Masons
47–3015 Helpers—Pipelayers, Plumbers, Pipefitters, and Steamfitters
47–3016 Helpers—Roofers
47–3019 Helpers, Construction Trades, All Other
47–4000 OTHER CONSTRUCTION AND RELATED WORKERS
47–4010 Construction and Building Inspectors
47–4011 Construction and Building Inspectors
47–4020 Elevator Installers and Repairers
47–4021 Elevator Installers and Repairers
47–4030 Fence Erectors
47–4031 Fence Erectors
47–4040 Hazardous Materials Removal Workers
47–4041 Hazardous Materials Removal Workers
47–4050 Highway Maintenance Workers
47–4051 Highway Maintenance Workers
47–4060 Rail-track Laying and Maintenance Equipment Operators
47–4061 Rail-track Laying and Maintenance Equipment Operators
47–4070 Septic Tank Servicers and Sewer Pipe Cleaners
47–4071 Septic Tank Servicers and Sewer Pipe Cleaners
47–4090 Miscellaneous Construction and Related Workers
47–4099 Construction and Related Workers, All Other
47–5000 EXTRACTION WORKERS
47–5010 Derrick, Rotary Drill, and Service Unit Operators, Oil, Gas, and Mining
47–5011 Derrick Operators, Oil and Gas
47–5012 Rotary Drill Operators, Oil and Gas
47–5013 Service Unit Operators, Oil, Gas, and Mining
47–5020 Earth Drillers, Except Oil and Gas
47–5021 Earth Drillers, Except Oil and Gas
47–5030 Explosives Workers, Ordnance Handling Experts, and Blasters
47–5031 Explosives Workers, Ordnance Handling Experts, and Blasters
47–5040 Mining Machine Operators
47–5041 Continuous Mining Machine Operators
47–5042 Mine Cutting and Channeling Machine Operators
47–5049 Mining Machine Operators, All Other
47–5050 Rock Splitters, Quarry
47–5051 Rock Splitters, Quarry
47–5060 Roof Bolters, Mining
47–5061 Roof Bolters, Mining
47–5070 Roustabouts, Oil and Gas
47–5071 Roustabouts, Oil and Gas
47–5080 Helpers—Extraction Workers
47–5081 Helpers—Extraction Workers
47–5090 Miscellaneous Extraction Workers
47–5099 Extraction Workers, All Other
49–0000 INSTALLATION, MAINTENANCE, AND REPAIR OCCUPATIONS
49–1000 SUPERVISORS OF MECHANICS, INSTALLERS, AND REPAIRERS
49–1010 First-Line Supervisors/Managers of Mechanics, Installers, and Repairers
49–1011 First-Line Supervisors/Managers of Mechanics, Installers, and Repairers
49–2000 ELECTRICAL AND ELECTRONIC EQUIPMENT MECHANICS, INSTALLERS, AND REPAIRERS
49–2010 Computer, Automated Teller, and Office Machine Repairers
49–2011 Computer, Automated Teller, and Office Machine Repairers
49–2020 Radio and Telecommunications Equipment Installers and Repairers
49–2021 Radio Mechanics
49–2022 Telecommunications Equipment Installers and Repairers, Except Line Installers
49–2090 Miscellaneous Electrical and Electronic Equipment Mechanics, Installers, and Repairers
49–2091 Avionics Technicians
49–2092 Electric Motor, Power Tool, and Related Repairers
49–2093 Electrical and Electronics Installers and Repairers, Transportation Equipment
49–2094 Electrical and Electronics Repairers, Commercial and Industrial Equipment
49–2095 Electrical and Electronics Repairers, Powerhouse, Substation, and Relay
49–2096 Electronic Equipment Installers and Repairers, Motor Vehicles
49–2097 Electronic Home Entertainment Equipment Installers and Repairers
49–2098 Security and Fire Alarm Systems Installers
49–3000 VEHICLE AND MOBILE EQUIPMENT MECHANICS, INSTALLERS, AND REPAIRERS
49–3010 Aircraft Mechanics and Service Technicians
49–3011 Aircraft Mechanics and Service Technicians
49–3020 Automotive Mechanics and Repairers
49–3021 Automotive Body and Related Repairers
49–3022 Automotive Glass Installers and Repairers

49–3023 Automotive Mechanics and Service Technicians
49–3030 Engine Mechanics, Except Aircraft and Automotive
49–3031 Bus and Truck Mechanics and Diesel Engine Specialists
49–3032 Motorcycle Mechanics
49–3033 Small Engine Mechanics
49–3090 Miscellaneous Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
49–3091 Bicycle Repairers
49–3092 Farm Equipment Mechanics
49–3093 Mobile Heavy Equipment Mechanics, Except Engines
49–3094 Rail Car Repairers
49–3095 Recreational Vehicle Service Technicians
49–3096 Tire Repairers and Changers
49–9000 OTHER INSTALLATION, MAINTENANCE, AND REPAIR OCCUPATIONS
49–9010 Control and Valve Installers and Repairers
49–9011 Mechanical Door Repairers
49–9019 Control and Valve Installers and Repairers, All Other
49–9020 Heating, Air Conditioning, and Refrigeration Mechanics and Installers
49–9021 Heating, Air Conditioning, and Refrigeration Mechanics and Installers
49–9030 Home Appliance Repairers
49–9031 Home Appliance Repairers
49–9040 Industrial Machinery Installation, Repair, and Maintenance Workers
49–9041 Industrial Machinery Mechanics
49–9042 Maintenance and Repair Workers, General
49–9043 Maintenance Workers, Machinery
49–9044 Millwrights
49–9045 Refractory Materials Repairers, Except Brickmasons
49–9050 Line Installers and Repairers
49–9051 Electrical Power-line Installers and Repairers
49–9052 Telecommunications Line Installers and Repairers
49–9060 Precision Instrument and Equipment Repairers
49–9061 Camera and Photographic Equipment Repairers
49–9062 Medical Equipment Repairers
49–9063 Musical Instrument Repairers and Tuners
49–9064 Watch Repairers
49–9069 Precision Instrument and Equipment Repairers, All Other
49–9090 Miscellaneous Installation, Maintenance, and Repair Workers
49–9091 Coin, Vending, and Amusement Machine Servicers and Repairers
49–9092 Commercial Divers
49–9093 Fabric Menders, Except Garment
49–9094 Locksmiths and Safe Repairers
49–9095 Manufactured Building and Mobile Home Installers
49–9096 Riggers
49–9097 Signal and Track Switch Repairers
49–9098 Helpers—Installation, Maintenance, and Repair Workers
49–9099 Installation, Maintenance, and Repair Workers, All Other
51–0000 PRODUCTION OCCUPATIONS
51–1000 SUPERVISORS, PRODUCTION AND OPERATING WORKERS
51–1010 First-Line Supervisors/Managers of Production and Operating Workers
51–1011 First-Line Supervisors/Managers of Production and Operating Workers
51–2000 ASSEMBLERS AND FABRICATORS
51–2010 Aircraft Structure, Surfaces, Rigging, and Systems Assemblers
51–2011 Aircraft Structure, Surfaces, Rigging, and Systems Assemblers
51–2020 Electrical, Electronics, and Electromechanical Assemblers
51–2021 Coil Winders, Tapers, and Finishers
51–2022 Electrical and Electronic Equipment Assemblers
51–2023 Electromechanical Equipment Assemblers
51–2030 Engine and Other Machine Assemblers
51–2031 Engine and Other Machine Assemblers
51–2040 Structural Metal Fabricators and Fitters
51–2041 Structural Metal Fabricators and Fitters
51–2090 Miscellaneous Assemblers and Fabricators
51–2091 Fiberglass Laminators and Fabricators
51–2092 Team Assemblers
51–2093 Timing Device Assemblers, Adjusters, and Calibrators
51–2099 Assemblers and Fabricators, All Other
51–3000 FOOD PROCESSING WORKERS
51–3010 Bakers
51–3011 Bakers
51–3020 Butchers and Other Meat, Poultry, and Fish Processing Workers
51–3021 Butchers and Meat Cutters
51–3022 Meat, Poultry, and Fish Cutters and Trimmers
51–3023 Slaughterers and Meat Packers
51–3090 Miscellaneous Food Processing Workers
51–3091 Food and Tobacco Roasting, Baking, and Drying Machine Operators and Tenders
51–3092 Food Batchmakers
51–3093 Food Cooking Machine Operators and Tenders

51–4000 METALWORKERS AND PLASTIC WORKERS
51–4010 Computer Control Programmers and Operators
51–4011 Computer-controlled Machine Tool Operators, Metal and Plastic
51–4012 Numerical Tool and Process Control Programmers
51–4020 Machine Forming Setters, Operators, and Tenders, Metal and Plastic
51–4021 Extruding and Drawing Machine Setters, Operators, and Tenders, Metal and Plastic
51–4022 Forging Machine Setters, Operators, and Tenders, Metal and Plastic
51–4023 Rolling Machine Setters, Operators, and Tenders, Metal and Plastic
51–4030 Machine Tool Cutting Setters, Operators, and Tenders, Metal and Plastic
51–4031 Cutting, Punching, and Press Machine Setters, Operators, and Tenders, Metal and Plastic
51–4032 Drilling and Boring Machine Tool Setters, Operators, and Tenders, Metal and Plastic
51–4033 Grinding, Lapping, Polishing, and Buffing Machine Tool Setters, Operators, and Tenders, Metal and Plastic
51–4034 Lathe and Turning Machine Tool Setters, Operators, and Tenders, Metal and Plastic
51–4035 Milling and Planing Machine Setters, Operators, and Tenders, Metal and Plastic
51–4040 Machinists
51–4041 Machinists
51–4050 Metal Furnace and Kiln Operators and Tenders
51–4051 Metal-refining Furnace Operators and Tenders
51–4052 Pourers and Casters, Metal
51–4060 Model Makers and Patternmakers, Metal and Plastic
51–4061 Model Makers, Metal and Plastic
51–4062 Patternmakers, Metal and Plastic
51–4070 Molders and Molding Machine Setters, Operators, and Tenders, Metal and Plastic
51–4071 Foundry Mold and Coremakers
51–4072 Molding, Coremaking, and Casting Machine Setters, Operators, and Tenders, Metal and Plastic
51–4080 Multiple Machine Tool Setters, Operators, and Tenders, Metal and Plastic
51–4081 Multiple Machine Tool Setters, Operators, and Tenders, Metal and Plastic
51–4110 Tool and Die Makers
51–4111 Tool and Die Makers
51–4120 Welding, Soldering, and Brazing Workers
51–4121 Welders, Cutters, Solderers, and Brazers
51–4122 Welding, Soldering, and Brazing Machine Setters, Operators, and Tenders
51–4190 Miscellaneous Metalworkers and Plastic Workers
51–4191 Heat Treating Equipment Setters, Operators, and Tenders, Metal and Plastic
51–4192 Lay-out Workers, Metal and Plastic
51–4193 Plating and Coating Machine Setters, Operators, and Tenders, Metal and Plastic
51–4194 Tool Grinders, Filers, and Sharpeners
51–4199 Metalworkers and Plastic Workers, All Other
51–5000 PRINTING WORKERS
51–5010 Bookbinders and Bindery Workers
51–5011 Bindery Workers
51–5012 Bookbinders
51–5020 Printers
51–5021 Job Printers
51–5022 Prepress Technicians and Workers
51–5023 Printing Machine Operators
51–6000 TEXTILE, APPAREL, AND FURNISHINGS WORKERS
51–6010 Laundry and Dry-cleaning Workers
51–6011 Laundry and Dry-cleaning Workers
51–6020 Pressers, Textile, Garment, and Related Materials
51–6021 Pressers, Textile, Garment, and Related Materials
51–6030 Sewing Machine Operators
51–6031 Sewing Machine Operators
51–6040 Shoe Workers
51–6041 Shoe and Leather Workers and Repairers
51–6042 Shoe Machine Operators and Tenders
51–6050 Tailors, Dressmakers, and Sewers
51–6051 Sewers, Hand
51–6052 Tailors, Dressmakers, and Custom Sewers
51–6060 Textile Machine Setters, Operators, and Tenders
51–6061 Textile Bleaching and Dyeing Machine Operators and Tenders
51–6062 Textile Cutting Machine Setters, Operators, and Tenders
51–6063 Textile Knitting and Weaving Machine Setters, Operators, and Tenders
51–6064 Textile Winding, Twisting, and Drawing Out Machine Setters, Operators, and Tenders
51–6090 Miscellaneous Textile, Apparel, and Furnishings Workers
51–6091 Extruding and Forming Machine Setters, Operators, and Tenders, Synthetic and Glass Fibers
51–6092 Fabric and Apparel Patternmakers
51–6093 Upholsterers
51–6099 Textile, Apparel, and Furnishings Workers, All Other
51–7000 WOODWORKERS
51–7010 Cabinetmakers and Bench Carpenters
51–7011 Cabinetmakers and Bench Carpenters
51–7020 Furniture Finishers
51–7021 Furniture Finishers
51–7030 Model Makers and Patternmakers, Wood
51–7031 Model Makers, Wood

51–7032 Patternmakers, Wood
51–7040 Woodworking Machine Setters, Operators, and Tenders
51–7041 Sawing Machine Setters, Operators, and Tenders, Wood
51–7042 Woodworking Machine Setters, Operators, and Tenders, Except Sawing
51–7090 Miscellaneous Woodworkers
51–7099 Woodworkers, All Other
51–8000 PLANT AND SYSTEM OPERATORS
51–8010 Power Plant Operators, Distributors, and Dispatchers
51–8011 Nuclear Power Reactor Operators
51–8012 Power Distributors and Dispatchers
51–8013 Power Plant Operators
51–8020 Stationary Engineers and Boiler Operators
51–8021 Stationary Engineers and Boiler Operators
51–8030 Water and Liquid Waste Treatment Plant and System Operators
51–8031 Water and Liquid Waste Treatment Plant and System Operators
51–8090 Miscellaneous Plant and System Operators
51–8091 Chemical Plant and System Operators
51–8092 Gas Plant Operators
51–8093 Petroleum Pump System Operators, Refinery Operators, and Gaugers
51–8099 Plant and System Operators, All Other
51–9000 OTHER PRODUCTION OCCUPATIONS
51–9010 Chemical Processing Machine Setters, Operators, and Tenders
51–9011 Chemical Equipment Operators and Tenders
51–9012 Separating, Filtering, Clarifying, Precipitating, and Still Machine Setters, Operators, and Tenders
51–9020 Crushing, Grinding, Polishing, Mixing, and Blending Workers
51–9021 Crushing, Grinding, and Polishing Machine Setters, Operators, and Tenders
51–9022 Grinding and Polishing Workers, Hand
51–9023 Mixing and Blending Machine Setters, Operators, and Tenders
51–9030 Cutting Workers
51–9031 Cutters and Trimmers, Hand
51–9032 Cutting and Slicing Machine Setters, Operators, and Tenders
51–9040 Extruding, Forming, Pressing, and Compacting Machine Setters, Operators, and Tenders
51–9041 Extruding, Forming, Pressing, and Compacting Machine Setters, Operators, and Tenders
51–9050 Furnace, Kiln, Oven, Drier, and Kettle Operators and Tenders
51–9051 Furnace, Kiln, Oven, Drier, and Kettle Operators and Tenders
51–9060 Inspectors, Testers, Sorters, Samplers, and Weighers
51–9061 Inspectors, Testers, Sorters, Samplers, and Weighers
51–9070 Jewelers and Precious Stone and Metal Workers
51–9071 Jewelers and Precious Stone and Metal Workers
51–9080 Medical, Dental, and Ophthalmic Laboratory Technicians
51–9081 Dental Laboratory Technicians
51–9082 Medical Appliance Technicians
51–9083 Ophthalmic Laboratory Technicians
51–9110 Packaging and Filling Machine Operators and Tenders
51–9111 Packaging and Filling Machine Operators and Tenders
51–9120 Painting Workers
51–9121 Coating, Painting, and Spraying Machine Setters, Operators, and Tenders
51–9122 Painters, Transportation Equipment
51–9123 Painting, Coating, and Decorating Workers
51–9130 Photographic Process Workers and Processing Machine Operators
51–9131 Photographic Process Workers
51–9132 Photographic Processing Machine Operators
51–9140 Semiconductor Processors
51–9141 Semiconductor Processors
51–9190 Miscellaneous Production Workers
51–9191 Cementing and Gluing Machine Operators and Tenders
51–9192 Cleaning, Washing, and Metal Pickling Equipment Operators and Tenders
51–9193 Cooling and Freezing Equipment Operators and Tenders
51–9194 Etchers and Engravers
51–9195 Molders, Shapers, and Casters, Except Metal and Plastic
51–9196 Paper Goods Machine Setters, Operators, and Tenders
51–9197 Tire Builders
51–9198 Helpers—Production Workers
51–9199 Production Workers, All Other
53–0000 TRANSPORTATION AND MATERIAL MOVING OCCUPATIONS
53–1000 SUPERVISORS, TRANSPORTATION AND MATERIAL MOVING WORKERS
53–1010 Aircraft Cargo Handling Supervisors
53–1011 Aircraft Cargo Handling Supervisors
53–1020 First-Line Supervisors/Managers of Helpers, Laborers, and Material Movers, Hand
53–1021 First-Line Supervisors/Managers of Helpers, Laborers, and Material Movers, Hand
53–1030 First-Line Supervisors/Managers of Transportation and Material-moving Machine and Vehicle Operators
53–1031 First-Line Supervisors/Managers of Transportation and Material-moving Machine and Vehicle Operators
53–2000 AIR TRANSPORTATION WORKERS
53–2010 Aircraft Pilots and Flight Engineers
53–2011 Airline Pilots, Copilots, and Flight Engineers
53–2012 Commercial Pilots

53–2020 Air Traffic Controllers and Airfield Operations Specialists
53–2021 Air Traffic Controllers
53–2022 Airfield Operations Specialists
53–3000 MOTOR VEHICLE OPERATORS
53–3010 Ambulance Drivers and Attendants, Except Emergency Medical Technicians
53–3011 Ambulance Drivers and Attendants, Except Emergency Medical Technicians
53–3020 Bus Drivers
53–3021 Bus Drivers, Transit and Intercity
53–3022 Bus Drivers, School
53–3030 Driver/Sales Workers and Truck Drivers
53–3031 Driver/Sales Workers
53–3032 Truck Drivers, Heavy and Tractor-trailer
53–3033 Truck Drivers, Light or Delivery Services
53–3040 Taxi Drivers and Chauffeurs
53–3041 Taxi Drivers and Chauffeurs
53–3090 Miscellaneous Motor Vehicle Operators
53–3099 Motor Vehicle Operators, All Other
53–4000 RAIL TRANSPORTATION WORKERS
53–4010 Locomotive Engineers and Operators
53–4011 Locomotive Engineers
53–4012 Locomotive Firers
53–4013 Rail Yard Engineers, Dinkey Operators, and Hostlers
53–4020 Railroad Brake, Signal, and Switch Operators
53–4021 Railroad Brake, Signal, and Switch Operators
53–4030 Railroad Conductors and Yardmasters
53–4031 Railroad Conductors and Yardmasters
53–4040 Subway and Streetcar Operators
53–4041 Subway and Streetcar Operators
53–4090 Miscellaneous Rail Transportation Workers
53–4099 Rail Transportation Workers, All Other
53–5000 WATER TRANSPORTATION WORKERS
53–5010 Sailors and Marine Oilers
53–5011 Sailors and Marine Oilers
53–5020 Ship and Boat Captains and Operators
53–5021 Captains, Mates, and Pilots of Water Vessels
53–5022 Motorboat Operators
53–5030 Ship Engineers
53–5031 Ship Engineers
53–6000 OTHER TRANSPORTATION WORKERS
53–6010 Bridge and Lock Tenders
53–6011 Bridge and Lock Tenders
53–6020 Parking Lot Attendants
53–6021 Parking Lot Attendants
53–6030 Service Station Attendants
53–6031 Service Station Attendants
53–6040 Traffic Technicians
53–6041 Traffic Technicians
53–6050 Transportation Inspectors
53–6051 Transportation Inspectors
53–6090 Miscellaneous Transportation Workers
53–6099 Transportation Workers, All Other
53–7000 MATERIAL MOVING WORKERS
53–7010 Conveyor Operators and Tenders
53–7011 Conveyor Operators and Tenders
53–7020 Crane and Tower Operators
53–7021 Crane and Tower Operators
53–7030 Dredge, Excavating, and Loading Machine Operators
53–7031 Dredge Operators
53–7032 Excavating and Loading Machine and Dragline Operators
53–7033 Loading Machine Operators, Underground Mining
53–7040 Hoist and Winch Operators
53–7041 Hoist and Winch Operators
53–7050 Industrial Truck and Tractor Operators
53–7051 Industrial Truck and Tractor Operators
53–7060 Laborers and Material Movers, Hand
53–7061 Cleaners of Vehicles and Equipment
53–7062 Laborers and Freight, Stock, and Material Movers, Hand
53–7063 Machine Feeders and Offbearers
53–7064 Packers and Packagers, Hand
53–7070 Pumping Station Operators
53–7071 Gas Compressor and Gas Pumping Station Operators
53–7072 Pump Operators, Except Wellhead Pumpers
53–7073 Wellhead Pumpers
53–7080 Refuse and Recyclable Material Collectors
53–7081 Refuse and Recyclable Material Collectors
53–7110 Shuttle Car Operators

53–7111 Shuttle Car Operators
53–7120 Tank Car, Truck, and Ship Loaders
53–7121 Tank Car, Truck, and Ship Loaders
53–7190 Miscellaneous Material Moving Workers
53–7199 Material Moving Workers, All Other
55–0000 MILITARY SPECIFIC OCCUPATIONS
55–1000 MILITARY OFFICER SPECIAL AND TACTICAL OPERATIONS LEADERS/MANAGERS
55–1010 Military Officer Special and Tactical Operations Leaders/Managers
55–1011 Air Crew Officers
55–1012 Aircraft Launch and Recovery Officers
55–1013 Armored Assault Vehicle Officers
55–1014 Artillery and Missile Officers
55–1015 Command and Control Center Officers
55–1016 Infantry Officers
55–1017 Special Forces Officers
55–1019 Military Officer Special and Tactical Operations Leaders/Managers, All Other
55–2000 FIRST-LINE ENLISTED MILITARY SUPERVISORS/MANAGERS
55–2010 First-Line Enlisted Military Supervisors/Managers
55–2011 First-Line Supervisors/Managers of Air Crew Members
55–2012 First-Line Supervisors/Managers of Weapons Specialists/Crew Members
55–2013 First-Line Supervisors/Managers of All Other Tactical Operations Specialists
55–3000 MILITARY ENLISTED TACTICAL OPERATIONS AND AIR/WEAPONS SPECIALISTS AND CREW MEMBERS
55–3010 Military Enlisted Tactical Operations and Air/Weapons Specialists and Crew Members
55–3011 Air Crew Members
55–3012 Aircraft Launch and Recovery Specialists
55–3013 Armored Assault Vehicle Crew Members
55–3014 Artillery and Missile Crew Members
55–3015 Command and Control Center Specialists
55–3016 Infantry
55–3017 Radar and Sonar Technicians
55–3018 Special Forces
55–3019 Military Enlisted Tactical Operations and Air/Weapons Specialists and Crew Members, All Other

APPENDIX B: SOC Code Cross List—July 1997 SOC to July 1998 SOC

7/1997	7/1998
11–1001	11–1011
11–1002	11–1021
11–1003	11–1031
11–2001	11–3011
11–2002	11–2011
11–2003	11–3021
11–2011	11–3031
11–2012	11–3031
11–2021	11–3041
11–2022	11–3042
11–2029	11–3049
11–2031	11–3051
11–2041	11–2021
11–2042	11–2022
11–2051	11–2031
11–2052	11–3061
11–2053	11–3071
11–3011	11–9011
11–3012	11–9012
11–3021	11–9021
11–3031	11–9031
11–3032	11–9032
11–3033	11–9033
11–3039	11–9039
11–3041	11–9041
11–3042	11–9051
11–3043	11–9071
11–3044	11–9081
11–3045	11–9111
11–3046	11–9121
11–3047	11–9131
11–3048	11–9141
11–3999	11–9199
13–1001	13–1011
13–1002	13–1021
13–1002	13–1022
13–1002	13–1023
13–1003	13–1041
13–1004	13–1051
13–1005	11–9061
13–1011	13–1061
13–1012	13–1062
13–1013	13–1063
13–1019	13–1069
13–1021	13–1081
13–1022	13–1111
13–1023	13–1121
13–1099	13–1199
13–2001	13–2011
13–2002	13–2021
13–2003	13–2031
13–2004	13–2041
13–2011	13–2051
13–2012	13–2052
13–2021	13–2053
13–2031	13–2071
13–2032	13–2072
13–2041	13–2082
13–2099	13–2099
15–1001	15–1011
15–1002	15–1021
15–1011	15–1031
15–1012	15–1032
15–1021	15–1041
15–1022	15–1061
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15–1031	15–1081
15–1032	15–1051
15–1039	15–1051
15–1099	15–1099
15–2001	15–2011
15–2002	15–2021
15–2003	15–2031
15–2004	15–2041
15–2099	15–3011
17–1001	17–1011
17–1011	17–1021
17–1012	17–1022
17–2001	17–2011
17–2002	17–2021
17–2003	17–2031
17–2004	17–2041
17–2005	17–2051
17–2006	17–2061
17–2011	17–2071
17–2012	17–2072
17–2021	17–2081
17–2031	17–2111
17–2032	17–2112
17–2041	17–2121
17–2042	17–2131
17–2043	17–2141
17–2044	17–2151
17–2045	17–2161
17–2046	17–2171
17–2099	17–2199
17–3011	17–3011
17–3012	17–3012
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17–3019	17–3019
17–3021	17–3011
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17–3039	17–3029
17–3041	17–3031
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19–1012	19–1012
19–1013	19–1013
19–1021	19–1021
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19–1023	19–1023
19–1029	19–1029
19–1031	19–1031
19–1032	19–1032
19–1041	19–1049
19–1099	19–1099
19–2001	19–2011

19–2002	19–2021
19–2003	19–2031
19–2004	19–2041
19–2011	19–2042
19–2012	19–2043
19–2021	19–2032
19–2022	19–2012
19–2099	19–2099
19–3001	19–3091
19–3002	19–3011
19–3003	19–3092
19–3004	19–3093
19–3011	19–3021
19–3012	19–3022
19–3021	19–3094
19–3031	19–3031
19–3032	19–3032
19–3039	19–3039
19–3041	19–3041
19–3042	19–3051
19–3099	19–3099
19–4001	19–4011
19–4002	19–4021
19–4003	19–4031
19–4004	19–4091
19–4005	19–4092
19–4006	19–4093
19–4007	19–4041
19–4008	19–4051
19–4011	19–4061
19–4099	19–4099
21–1001	29–1011
21–1011	29–1021
21–1012	29–1024
21–1013	29–1023
21–1014	29–1022
21–1019	29–1029
21–1021	29–1031
21–1022	29–1041
21–1023	29–1051
21–1031	29–1061
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21–1039	29–1069
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21–1056	29–1126
21–1057	29–1127
21–1059	29–1129
21–1061	29–1131
21–1099	29–1199
21–2001	29–2031
21–2011	29–2012
21–2012	29–2011
21–2021	29–2021
21–2031	29–2032
21–2032	29–2033
21–2033	29–2034
21–2041	29–2051
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21–2052	29–2056
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21–3001	31–9091
21–3002	31–1011
21–3003	31–9092
21–3004	31–1012
21–3011	31–2012
21–3012	31–2011
21–3021	31–9095
21–3022	31–9099
21–3031	31–2022
21–3032	31–2021
21–3041	31–1013
21–3099	31–9099
21–4001	29–9091
21–4002	29–9099
21–4003	31–9093
21–4011	29–9011
21–4012	29–9012
21–4021	29–2091
21–4999	29–9099
23–1011	21–1011
23–1012	21–1013
23–1013	21–1014
23–1014	21–1015
23–1019	21–1019
23–1021	21–1021
23–1022	21–1022
23–1023	21–1023
23–1029	21–1029
23–1031	21–1092
23–1032	39–9042
23–1033	21–1093
23–2001	21–2011
23–2002	21–2021
23–2099	21–2099
25–1001	23–1021
25–1002	23–1022
25–1011	47–4011
25–1012	13–2061
25–1013	29–9011
25–1013	29–9012
25–1014	13–2081
25–1019	13–1031
25–1019	45–2011
25–1021	23–1023
25–1022	23–2092
25–1023	23–1011
25–1024	23–2011
25–1025	23–2093
25–1999	23–2099
27–1001	25–2011
27–1002	25–2012
27–1003	25–2021
27–1004	25–2022
27–1005	25–2031
27–1006	25–2041
27–2001	25–1011
27–2011	25–1021
27–2012	25–1022
27–2021	25–1031
27–2022	25–1032
27–2031	25–1041
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27–2041	25–1051
27–2042	25–1052
27–2043	25–1053
27–2044	25–1054
27–2051	25–1061
27–2052	25–1062
27–2053	25–1063
27–2054	25–1064
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27–2056	25–1065
27–2057	25–1066
27–2058	25–1067
27–2059	25–1069
27–2061	25–1071
27–2062	25–1072
27–2071	25–1081
27–2072	25–1082
27–2081	25–1111
27–2082	25–1112
27–2083	25–1113
27–2091	25–1121
27–2092	25–1122
27–2093	25–1123
27–2094	25–1124
27–2095	25–1125
27–2096	25–1126
27–2101	25–1191
27–2102	25–1192
27–2103	25–1193
27–2109	25–1199
27–3001	25–3011
27–3002	25–3021
27–3003	25–3031
27–3099	25–3099
27–4011	25–4011
27–4012	25–4012
27–4013	25–4013
27–4021	25–4021
27–4022	25–4031
27–4022	25–4121
27–5001	25–9011
27–5002	21–1012
27–5003	25–9021
27–5004	25–9031
27–5005	27–2022
27–5006	25–9041
29–1011	27–1011
29–1012	27–1012
29–1013	27–1013
29–1014	27–1014
29–1019	27–1019
29–1021	27–2021
29–1022	27–2022
29–1023	27–2023
29–1031	27–2011
29–1032	27–2031
29–1032	27–2032
29–1033	27–2041
29–1034	27–2042
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29–1039	27–2099
29–2001	27–3011
29–2001	27–3012
29–2002	27–3021
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29–2005	27–3041
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29–2007	27–3091
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29–2011	27–4021
29–2012	27–3031
29–2013	27–4012
29–2014	27–3022
29–2015	27–4013
29–2021	27–3042
29–2022	27–3043
29–2099	27–3099
29–3001	27–1021
29–3002	27–1022
29–3003	27–1023
29–3004	27–1024
29–3005	27–1025
29–3006	17–1012
29–3007	27–1026
29–3008	27–1027

29–3099	27–1029
31–1001	41–1011
31–1002	41–1012
31–2001	41–2011
31–2002	41–2021
31–2003	41–9011
31–2004	41–9091
31–2005	41–9012
31–2006	41–2022
31–2011	41–9021
31–2012	41–9022
31–2021	41–2031
31–2022	41–9031
31–2031	41–3011
31–2032	41–3021
31–2033	41–3031
31–2034	41–3041
31–2039	41–3099
31–2041	41–4011
31–2042	41–4012
31–2051	41–9041
31–2999	none
33–1001	43–1011
33–2001	43–3011
33–2011	13–1071
33–2012	13–1072
33–2021	43–9031
33–3001	43–2011
33–3002	43–2021
33–3099	43–2099
33–4001	43–3021
33–4002	43–3031
33–4003	43–3041
33–4004	43–3051
33–4005	43–3061
33–4005	43–4141
33–5001	43–4011
33–5002	43–4021
33–5003	43–4031
33–5004	43–4041
33–5005	43–4051
33–5006	43–4061
33–5007	43–4071
33–5008	43–4081
33–5011	43–4111
33–5012	43–4131
33–5013	43–4151
33–5014	43–4161
33–5015	43–4171
33–5016	43–4181
33–5099	43–4199
33–6001	23–2093
33–6001	31–9094
33–6002	43–9021
33–6003	43–9022
33–7001	43–5011
33–7002	43–5032
33–7003	43–5041
33–7004	43–5031
33–7005	43–5051
33–7006	43–5052
33–7007	43–5053
33–7008	43–5061
33–7011	43–5071
33–7012	43–5081
33–7013	43–5111
33–8001	43–6011
33–8002	43–6012
33–8003	43–6013
33–8099	43–6019
33–9001	43–9011
33–9002	43–5021
33–9003	43–9051
33–9004	43–9061
33–9005	43–9071
33–9006	43–9081
33–9007	43–9111
33–9999	43–9199
35–1001	33–1021
35–1011	33–1011
35–1012	33–1012
35–1099	33–1099
35–2001	33–2011
35–2011	33–2021
35–2012	33–2022
35–3001	33–3012
35–3002	33–3021
35–3011	33–3051
35–3012	33–3052
35–3021	33–3011
35–3022	33–3031
35–3023	33–9099
35–4001	33–9011
35–4002	33–9091
35–4003	33–9092
35–4004	33–3041
35–4005	33–9021
35–4006	33–9031
35–4999	33–9099
37–1001	35–1012
37–1002	35–1011
37–2011	35–2011
37–2012	35–2012
37–2013	35–2013
37–2014	35–2014
37–2015	35–2015
37–2021	35–2021
37–3001	35–3011
37–3002	35–9011
37–3011	35–3021
37–3012	35–3022
37–3021	35–3041
37–3022	35–3031
37–4001	35–9021
37–4002	35–9031
37–4999	35–9099
39–1001	37–1011
39–1002	37–1012
39–2001	37–2011
39–2002	37–2012
39–2003	37–2021
39–2099	37–2019
39–3001	37–3011
39–3002	37–3012
39–3003	37–3013
39–3099	37–3019
41–1001	39–1011
41–1002	39–1021
41–2001	39–3091
41–2002	39–3092
41–2011	39–3011
41–2012	39–3012
41–2013	39–3013
41–2021	39–3031
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41–3002	39–5012
41–3002	39–5094
41–3003	39–5091
41–3004	39–5092
41–3005	39–5093
41–4001	39–6011
41–4002	39–6012
41–4003	39–6031
41–4004	39–6032
41–4005	39–6021
41–4006	39–6022
41–5001	39–9011
41–5002	39–4021
41–5003	39–3093
41–5004	39–9021
41–5005	11–9061
41–5005	39–4011
41–5006	39–9031
41–5007	39–9051
41–5999	39–9099
43–1001	45–1011
43–2001	39–2011
43–2002	31–9096
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43–2099	none
43–3001	45–2021
43–3002	45–2041
43–3003	45–2031
43–3011	45–2091
43–3012	45–2092
43–3013	45–2093
43–3099	45–2099
43–4001	45–3011
43–4002	45–3021
43–5001	45–4011
43–5011	45–4021
43–5012	45–4023
43–5019	45–4029
43–5999	45–9099
45–1001	47–1011
45–2001	47–2011
45–2011	47–2021
45–2012	47–2022
45–2021	47–2031
45–2022	47–2041
45–2031	47–2051
45–2032	47–2052
45–2041	47–2071
45–2041	47–2072
45–2041	47–2073
45–2042	47–2061
45–2051	47–2081
45–2052	47–2082
45–2061	47–2111
45–2062	49–2098
45–2063	47–4021
45–2064	47–4031
45–2071	47–2042
45–2072	47–2044
45–2081	47–2043
45–2082	47–2121
45–2083	47–4041
45–2084	47–4051
45–2091	47–2131
45–2092	47–2132
45–2101	47–2141
45–2102	47–2142
45–2111	47–2151
45–2112	47–2152
45–2121	47–2161
45–2122	47–4061
45–2123	47–2171
45–2124	47–2181
45–2125	47–4071
45–2126	47–2211
45–2127	47–2221
45–2131	47–3011
45–2132	47–3012
45–2133	47–3013
45–2134	47–3014
45–2135	47–3015
45–2136	47–3016
45–2139	47–3019
45–2199	47–3019
45–3011	47–5011
45–3012	47–5012
45–3013	47–5013
45–3021	47–5021
45–3022	47–5031
45–3031	47–5041
45–3032	47–5042
45–3039	47–5049
45–3041	47–5051

45–3042	47–5061
45–3043	47–5071
45–3044	47–5081
45–3099	47–5099
47–1001	49–1011
47–2001	49–2011
47–2002	49–2021
47–2003	49–2022
47–2011	49–2091
47–2012	49–2092
47–2013	49–2093
47–2013	49–2096
47–2014	49–2094
47–2014	49–2095
47–2015	49–2097
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47–3004	49–3023
47–3005	49–3091
47–3006	49–3031
47–3007	49–3092
47–3008	49–3093
47–3011	49–3032
47–3012	49–3094
47–3013	49–3095
47–3014	49–3033
47–4001	49–9061
47–4002	49–9091
47–4004	49–9051
47–4005	49–9093
47–4006	49–9021
47–4007	49–9031
47–4008	49–9041
47–4011	49–9094
47–4012	49–9042
47–4013	49–9043
47–4014	49–9095
47–4015	49–9011
47–4016	49–9062
47–4017	49–9044
47–4018	49–9063
47–4022	49–9045
47–4023	49–9096
47–4024	49–9097
47–4025	49–9052
47–4026	49–3096
47–4027	49–9064
47–4028	49–9098
47–4999	49–9092
47–4999	49–9099
49–1001	51–1011
49–2001	51–2011
49–2002	51–2021
49–2011	51–2022
49–2012	51–2023
49–2021	51–2031
49–2022	51–2091
49–2023	51–2092
49–2024	51–2093
49–2099	51–2099
49–3001	51–3011
49–3011	51–3021
49–3012	51–3022
49–3013	51–3023
49–3021	51–3091
49–3022	51–3092
49–3023	51–3093
49–4001	51–4011
49–4002	51–4031
49–4003	51–4032
49–4004	51–4021
49–4005	51–4022
49–4006	51–4033
49–4007	51–4191
49–4008	51–4034
49–4011	51–4192
49–4012	51–4041
49–4013	51–4051
49–4014	51–4035
49–4021	51–4061
49–4022	51–4062
49–4031	51–4071
49–4032	51–4072
49–4033	51–4081
49–4034	51–4012
49–4035	51–4193
49–4036	51–4052
49–4037	51–4023
49–4038	51–2041
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49–4042	51–4194
49–4051	51–4121
49–4052	51–4122
49–4099	51–4199
49–5001	51–5011
49–5002	51–5012
49–5003	43–9021
49–5004	51–5021
49–5005	51–5022
49–5006	51–5023
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49–6002	51–6092
49–6003	51–6011
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49–6006	51–6041
49–6007	51–6042
49–6011	51–6051
49–6012	51–6052
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49–6022	51–6062
49–6023	51–6063
49–6024	51–6064
49–6025	51–6093
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49–7002	51–7021
49–7011	51–7031
49–7012	51–7032
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49–7022	51–7042
49–7099	51–7099
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49–8002	51–8092
49–8003	51–8093
49–8011	51–8011
49–8012	51–8012
49–8013	51–8013
49–8021	51–8021
49–8022	51–8031
49–8099	51–8099
49–9001	51–9191
49–9002	51–9011
49–9003	51–9192
49–9004	51–9121
49–9005	51–9193
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49–9007	51–9031
49–9008	51–9032
49–9011	51–9081
49–9012	51–9194
49–9013	51–9041
49–9014	51–9051
49–9015	51–9022
49–9016	51–9061
49–9017	51–9071
49–9018	51–9082
49–9021	51–9023
49–9022	51–9195
49–9023	51–9083
49–9024	51–9111
49–9025	51–9122
49–9026	51–9123
49–9027	51–9196
49–9031	51–9131
49–9032	51–9132
49–9041	51–9141
49–9042	51–9012
49–9043	51–9197
49–9044	51–9198
49–9999	51–9199
51–1001	53–1011
51–1002	53–1021
51–1003	53–1031
51–2011	53–2011
51–2012	53–2012
51–2021	53–2021
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51–3001	53–3011
51–3011	53–3021
51–3012	53–3022
51–3021	53–3031
51–3022	53–3041
51–3031	53–3032
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51–4011	53–4011
51–4012	53–4012
51–4013	53–4013
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51–4022	53–4031
51–4023	53–4041
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51–5002	53–5011
51–5011	53–5021
51–5012	53–5022
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51–6001	53–6021
51–6002	53–6031
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51–6005	53–6061
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51–7001	53–7011
51–7002	53–7021
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51–7012	53–7032
51–7013	53–7033
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51–7024	53–7063
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51–7041	53–7081
51–7042	53–7111
51–7043	53–7121
51–7044	53–7061
51–7099	53–7199
53–1001	55–1011
53–1002	55–1012
53–1003	55–1013
53–1004	55–1014
53–1005	55–1015
53–1006	55–1016
53–1007	55–1017
53–1099	55–1019
53–2001	55–2011
53–2002	55–2012
53–2003	55–2013
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53–3002	55–3012
53–3003	55–3013

53–3004 55–3014
53–3005 55–3015
53–3006 55–3016
53–3007 55–3017
53–3008 55–3018
53–3099 55–3019

Appendix C: Respondents to the July 7, 1997, Federal Register Notice

The SOCRPC received over 200 comments from 194 different individuals and organizations. The appendix below lists the names of individuals, employees of organizations, institutions, private companies, government agencies, and associations who commented on the July 7, 1997, **Federal Register** Notice.

Alameda Alliance for Health
American Academy of Audiology
American Association for Health Education
American Association for Marriage and Family Therapy
American Association for Medical Transcription
American Association of Medical Assistants
American College of Epidemiology
American College of Preventive Medicine
American Dental Hygienists Association
American Heart Association
American Institute of Graphic Arts
American Institute of Physics
American Physical Therapy Association
American Physiological Society
American Public Health Association
American Society of Alternative Therapists
American Speech-Language-Hearing Association
American Translators Association
Amherst Central High School
Arizona Department of Economic Security
Arkansas Department of Health
Association of American Geographers
Association of Schools of Public Health
Association of State and Territorial Directors of Health Promotion and Public Health Education
Baldassini, Dominique M.
Bassett, Monica
Beginnings
Bendersky, Judith
Bernards Township Health Department
Bertallot, Andrew
Berwitz, Clement, Jr.
Brewster, Denise G.
Bureau of Labor Statistics, Chicago Regional Office, National Compensation Survey
Bureau of Labor Statistics, Office of Safety, Health, and Working Conditions
Butte County Department of Public Health
Bynum, Melinda
C. Hage Associates
California Council of Local Directors of Health Education
California Department of Health Services, Emergency Preparedness and Injury Control Branch
California Health and Welfare Agency
California State University, Long Beach, Health Science Department
Catawba County Public Health Department
Chilton Memorial Hospital
Coalition of National Health Education Organizations
Connecticut Department of Labor
Construction Labor Research Council
Consumer Electronics Manufacturers Association
Contra Costa Health Services Department
Council on Education for Public Health
Dietrich, Eleanor
Down, Susan E.
Dunham, Patricia R
Durward, Dina
East Carolina University
East County Community Health Services
English Nanny and Governess School, Inc.
Ennis, Amanda
Florida Department of Labor and Employment Security
Forrey, Arden W.
Fries, Sarah Tilton
Georgia Department of Labor
Glazer, Emily
Guild of Professional Tour Guides of Washington, D. C.
Guilford County Women's Health Program
Hartley Dodge Memorial Hospital, Department of Health
Health Education Consultant's Council
Hewald, Ohio K.
Hirtz, Susan
Idaho Department of Health and Welfare
Illinois Department of Employment Security
Illinois State University
International Hearing Society
International Labor Office
International Organization for Medical Physics
Interstate Commission of Employment Security Agencies
Iowa State Occupational Information Coordinating Committee
Jacobson, Solomon G.
Johns Hopkins University School of Hygiene and Public Health
Johnson, Barbara L.
Johnston, Michelle R.
Kambas, Michael
Kansas Human Resources
LA Care Health Plan
Lackey, Cheryl
Li, Wex
Los Angeles Department of Health Services
Luke's-Roosevelt Hospital Center
Madison Health Department
Medical Center Delaware
Michigan Jobs Commission
Millburn, Township of, Board of Health
Minnesota Department of Economic Security
Minnesota Occupational Information Coordinating Committee
Missouri Department of Labor and Industrial Relations
Mobil
Monroe, Diana L.
Montana Department of Labor and Industry
Mortenson, Helen
National Air Transportation Association
National Association of Social Workers
National Association of State Personnel Executives
National Athletic Trainers Association
National Certification Board for Therapeutic Massage and Bodywork
National Commission for Health Education Credentialing
National Court Reporters Association
National Environmental Health Association
National Library of Medicine, Health Services Research Information
National Systems Contractors Association
National Transportation Safety Board
Nevada Department of Employment, Training, and Rehabilitation
New Jersey Department of Health and Senior Services
New Jersey Department of Labor
New Jersey Department of Personnel
New Jersey Graduate Program in Public Health
New Mexico Department of Labor
New Mexico State University
New York Department of Labor
North Carolina Department of Health and Human Services, Division of Health Promotion
North Carolina Department of Health and Human Services, Office of Healthy Carolinians
North Carolina Office of State Personnel
O*NET—Employment and Training Administration
O*NET North Carolina Team
Office of Personnel Management
Ohio Department of Health, Bureau of Health Promotion and Risk Reduction
Panama Canal Commission
PCA Health Plans of Texas, Inc.
Pennsylvania Department of Labor and Industry
Pennsylvania State University
Pensacola Junior College
Pinellas Workforce Development Board
Pletka, Radek
Private Industry Council of San Francisco
Registry of Interpreters for the Deaf, Inc.
Rhode Island Department of Health
Robertson, Anna Ryan
Rollins School of Public Health
Rutgers University Student Health Service
Sakora, Lea
San Diego Workforce Partnership
Schreiber Translations and Publishing, Inc.
Snohomish County Community Health Center
Snyder, George W. K., Jr.
Society for Public Health Education, Inc.
Society for Public Health Education, Inc., Great Lakes Chapter
Society for Public Health Education, Inc., Greater New York Chapter
Society for Public Health Education, Inc., New Jersey Chapter
Society for Public Health Educators, Inc., NCA
Society for Public Health Education, Inc., San Diego Chapter
Society for Public Health Education, Inc., Southern California Chapter
Society of Vascular Technology
South Carolina Department of Health and Environmental Control, Office of Public Health Education
South Dakota Department of Labor
Special Libraries Association
Special Libraries Association, New York Chapter
Stanford Patient Education Research Center
Stevenson, Paul S.
Stoess, Caryn
Sweedle, Julie
Teachers College, Columbia University
Tennessee Department of Employment Security
Texas A and M University, Department of Health and Kinesiology

Texas Department of Health
Texas Workforce Commission
U.S. Department of Education, National Institute of Student Achievement
U.S. Department of Health and Human Services, Bureau of Health Professions
U.S. Department of Health and Human Services, National Institute of Health, National Heart, Lung, and Blood Institute
U.S. Department of Health and Human Services, National Institute of Health, National Library of Medicine
U.S. Department of Health and Human Services, Office of Public Health and Science
U.S. Department of Health and Human Services, Office of the Secretary
U.S. Office of Personnel Management
U.S. Senate, Senator Thad Cochran
U.S. Senate, Senator Robert G. Torricelli
UCI Medical Center
Union Pacific Railroad
University of California at San Diego
University of California, Los Angeles
University of Central Arkansas
University of Medicine and Dentistry of New Jersey, Environmental and Occupational Health Sciences Institute
University of Michigan
University of Mississippi
University of North Carolina
University of North Florida
University of North Texas Health Science Center
Vertek
Virginia Mason Medical Center
Wake County Department of Health
Webb, Karen
William Paterson University
Wisconsin Department of Workforce Development
Wyatt, Phil
Wyoming Department of Employment
Zorrilla, Marcia M.

Donald R. Arbuckle,

Acting Administrator and Deputy Administrator, Office of Information and Regulatory Affairs.

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Wednesday
August 5, 1998

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Regulatory Alternatives for the 1998–99 Duck Hunting Season; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Final Regulatory Alternatives for the 1998–99 Duck Hunting Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: This proposed rule supplement establishes the Service's final regulatory alternatives for the 1998–99 duck hunting season for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. The effect of this supplement is to facilitate the selection of the appropriate regulatory alternative for the 1998–99 duck hunting season for these States. The selection of the alternative for the 1998–99 season will be published in the **Federal Register** in late-August.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, MBMO, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings. On June 25, 1998, the Service held a public hearing to announce the proposed early-season migratory bird hunting regulations frameworks. On July 17, 1998, the Service published in the **Federal Register** (63 FR 38700) a third document specifically dealing with proposed early-season frameworks for the 1998–99 season. The July 17 supplement also established the final regulatory alternatives for the 1998–99 duck hunting season for all States except Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee.

This document is the fourth in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations and deals specifically with the final regulatory alternatives for the 1998–99 duck hunting season for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. It will lead to the selection of the proposed alternative and ultimately final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 1998–99 season. The Service has considered all pertinent comments received through July 1, 1998, in developing this document. The Service will publish proposed regulatory frameworks, including the selection of the appropriate regulatory alternative for the 1998–99 duck hunting season, for late seasons in the **Federal Register** on or about August 21, 1998.

Comments Received at June 25 Public Hearing

Mr. Brad Bales, gamebird program coordinator for the Oregon Department of Fish and Wildlife, made two statements on behalf of two separate organizations. The first, on behalf of the National Flyway Council, was an announcement that the National Flyway Council would establish a committee to address the framework question from a national perspective. At their next meeting, the National Flyway Council will determine the composition of the group and establish a time frame for the committee to complete their work and make their recommendations back to the National Flyway Council.

Mr. Bales' second comment was on behalf of the Pacific Flyway Council. He indicated that the Pacific Flyway Council urged the Service not to extend the framework dates for duck hunting in the lower Mississippi Flyway as recently proposed in the **Federal Register**. Further, he offered the support of the Pacific Flyway Council for the effort proposed by the National Flyway Council.

Mr. Robert McDowell, representing the Atlantic Flyway Council stressed the Flyway's proposal that framework dates remain fixed where they currently are in all Flyways and disapproved of attempts occurring outside the formal regulatory process to change them. He further indicated that if the Service finalized the proposed framework closing date extensions, all States should have the same opportunity. He supported the National Flyway Council efforts to resolve this problem that is divisive among Flyways.

Mr. Charles Kelley, representing the Alabama Department of Conservation and Natural Resources, commented in support of the proposed extension of the framework closing date for duck hunting, stating that the State had been requesting an extension for a number of years because a later hunting season would allow them to take better advantage of duck abundance in the State.

Written Comments Received

The preliminary proposed rulemaking, which appeared in the March 20 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the May 29 **Federal Register**, defined the public comment period for the Service's proposed regulatory alternatives for the 1998–99 duck hunting season. The public comment period for the proposed regulatory alternatives closed July 1, 1998. Comments pertaining to the proposed alternatives are summarized below and numbered in the order used in the March 20 **Federal Register**. All of these comments were included in the July 17 supplement, however, comments related to the regulatory alternatives for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee were not addressed in that document. They are instead addressed here, and thus, have been repeated as a convenience for the reader. Only the numbered items pertaining to the proposed regulatory alternatives for which written comments were received are included.

The Service received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

I. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories

containing substantial recommendations are included below.

A. Harvest Strategy Considerations

On May 29, 1998, the Service published for public comment the proposed regulatory alternatives for the 1998–99 duck hunting season (63 FR 29518). The proposed regulatory alternatives were identical to the alternatives utilized in 1997–98 except for the proposal to offer an extension of the framework closing date to no later than January 31 in those States in the Lower Region of the Mississippi Flyway (Arkansas, Alabama, Kentucky, Louisiana, Mississippi, and Tennessee). Further discussion of the framework issue can be found in B. Framework Dates.

Council Recommendations: All four Flyway Councils generally endorsed continuation of the 1997–98 regulatory alternatives. Modifications recommended by the Councils were identified and discussed in the May 29, 1998, **Federal Register**. The recommendations are reiterated below and modified where necessary based on subsequent comments received from the Flyway Councils.

The Atlantic Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

The Upper-Regulations Committee of the Mississippi Flyway Council recommended that the 1997–98 regulations packages be maintained for the 1998–99 duck season. These consisted of 20-, 30-, 45-, and 60-day seasons, with bag limits ranging from 3 to 6 ducks, including appropriate species restrictions, and frameworks dates from the Saturday nearest October 1 to the Sunday nearest January 20.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulatory packages for the 1997–98 season be continued in 1998–99, with the exception of framework dates (see further discussion in B. Framework Dates).

The Central Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

Service Response: In the July 17 proposed rule, the Service indicated that for the 1998–99 regular duck hunting season, the Service would utilize the four regulatory alternatives detailed in the accompanying table for all States except Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. The regulatory alternatives for those six States were not finalized pending a decision on the framework closing date and associated season length.

For the 1998–99 regular duck hunting season, the Service will utilize the previously identified regulatory alternatives for all States. Details of the four alternatives are identified in the accompanying table. Alternatives are specified for each Flyway and are designated as ''VERY RES'' for the very restrictive, ''RES'' for the restrictive, ''MOD'' for the moderate, and ''LIB'' for the liberal alternative. The Service is convinced that these alternatives will be successful at providing maximum hunting opportunity, while not jeopardizing the ability of duck species to attain population goals when habitat conditions are adequate. The Service will propose a specific regulatory alternative when survey data on waterfowl population and habitat status are available.

B. Framework Dates

Council Recommendations: The Atlantic Flyway Council recommended no change to the current framework dates, believing that extensions would be premature without knowing the potential harvest impacts, which could reduce the frequency of liberal regulations and would reduce the likelihood that eastern mallards will be fully incorporated into Adaptive Harvest Management (AHM) this year. In a subsequent letter, the Council opposed the Service's May 29, 1998, framework extension proposal because the proposal was developed outside the normal Flyway meeting schedule which prohibited Flyway Council review. The Council voiced concerns regarding the impact on the AHM process, adverse impacts on hunting opportunities across all Flyways to accommodate desires of a small region which already enjoys very high hunter success, negative biological impacts on mallard pairing and hen body condition, and impacts on eastern mallard stocks, black ducks, and wood ducks. They believe the proposal calls into question the fair allocation of a shared resource and mechanisms used to achieve that allocation. The Council warned that allowing extensions without using existing Flyway Council protocol would fracture the existing Flyway system and politicize the system. The Council recommended delaying action on frameworks for at least one year to allow appropriate State and Flyway review.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended the Service allow States to choose a framework closing date as late as January 31 with a 10% penalty in days.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended no change in existing framework dates. The Committee also recommended that if the Service were to offer States the opportunity to extend frameworks, the extension should be coupled with a commensurate reduction in season length and/or bag limits in the participating States to offset the predicted increase in harvest.

The Central Flyway Council recommended maintaining the current opening and closing framework dates adopted under AHM. However, at some future date, when the packages are reviewed for modification, the Council recommended that the framework dates issue should be cooperatively dealt with by all Flyways in seeking an agreement for equitable harvest opportunity. In a subsequent letter, the Council opposed the Service's May 29, 1998, proposal because it was developed outside the normal Flyway Council/Service review process. They believe the proposal's adoption will create animosity among States and erode the cooperative framework the Council system has provided for the past fifty years, and threaten the success of AHM. The Council perceives the extension issue as one of fair allocation of harvest opportunity. The Council is concerned that other States are not being offered the extension and may be held to a more stringent criteria for future changes. The Council urged the Service to work with Flyways to continue development of the AHM program, which the Council believes will promote enhanced hunting opportunities in the future. The Council stated that both early and late framework issues should be addressed when AHM packages are next revised and that they look forward to working with the other Flyways and the Service towards an agreement on equitable harvest opportunity.

The Pacific Flyway Council recommended maintaining the current opening and closing duck season framework dates adopted under AHM for the near future.

Written Comments: The Mississippi Department of Wildlife, Fisheries, and Parks commented in favor of extending the framework closing date to January 31 and submitted an analysis of data based on the most recent two years. Although their analysis indicated an appropriate reduction in season length of 3 days, they proposed to reduce the season length 8 days, based on a more liberal estimate of harvest increases.

The Kentucky Department of Fish and Wildlife Resources communicated their interest in having the option of a

January 31 framework closing date. While the State had no specific data related to an appropriate penalty for the extension, they believed Mississippi's analysis was applicable for the Lower Region at this time, unless more appropriate analyses had been conducted elsewhere. Kentucky urged the Service to develop final framework packages based on the information that most accurately reflects the anticipated impacts.

The Arkansas Game and Fish Commission expressed concern that the framework issue had been pursued largely outside the Flyway Council process and threatened the long-term waterfowl management process, but believed a component of its hunters was interested in the extended opportunity. Arkansas expressed concern over the potential for the extensions to result in more restrictive harvest regulations in the future, and the inability to accurately measure harvest rates and assess impacts of the extensions.

The Tennessee Wildlife Resources Agency stated that the recent warmer-than-normal conditions had renewed sportsmen's interest in framework extensions. The State pledged the assistance of its personnel to help resolve the framework issue in a fair, equitable, and non-divisive manner. An Agency resolution called for the Service and the Mississippi Flyway Council to work towards extending season frameworks in a fair and equitable manner for the 1998–99 season and beyond.

The Louisiana Department of Wildlife and Fisheries supported a framework extension to January 31 as long as the State's participation does not require a reduction in hunting days or bag limits. Louisiana was disappointed by the proposed rule and hoped the Service would develop a practical resolution to this contentious issue. A 1997 opinion survey of Louisiana hunters indicated a large majority preferred a January 31 closing date and State waterfowl survey data indicate that more ducks are in Louisiana during December and January. The State was unable to develop, in the allotted period, an estimate of the impact on harvest rates that they would consider reliable.

The Alabama Department of Conservation and Natural Resources stated that they had supported framework extensions in Alabama for many years and support maximizing hunting opportunities as long as the resource is not negatively impacted. The Department stated that Alabama hunter success is near or below the Mississippi Flyway average as shown by seasonal duck harvest per hunter and that an increased proportion of mallards harvested in Alabama may help offset the long-term decline in Canada goose harvest opportunity in Alabama. Alabama had no data regarding an offset penalty and would rely on the analysis from Mississippi.

The Pennsylvania Game Commission opposed the extension proposal. Pennsylvania stated the proposal was developed without consultation with the other Flyway Councils, it conflicted with cooperatively developed AHM packages, and would confound attempts to assess impacts of season length on harvest. Concern was expressed about the potential for increased harvest of eastern duck stocks and the potential for more restrictive harvest opportunities on a broad scale if frameworks were extended in southern States. Pennsylvania believed that, at the very least, consideration of this proposal should be delayed until Flyway Councils and the AHM working group had assessed its ramifications.

The South Carolina Department of Natural Resources objected to the proposal to limit the extension of the framework closing date to the southern portion of the Mississippi Flyway. They stated that waterfowl hunters in South Carolina have been dissatisfied with the framework dates for a very long time, and the proposal to restrict the extension is arbitrary and capricious and violates the tenet of ''fairness'' that we have operated under for so many years as relates to the nationwide management of migratory birds through the regulatory process administered by the Service. They recommended that the same option for extension of the framework closing date be offered to States in the southern portion of the Atlantic Flyway.

The Georgia Department of Natural Resources did not support the extension proposal because it undermined the primary goals of the AHM process which had been adopted by all Flyways. They believed adoption of the proposal would serve as a catalyst for additional regional campaigns leading to increased regulatory inconsistency. Many of Georgia's hunters strongly desire a framework extension to January 31; however, until current packages are tested over a longer period, it was not in the long-term interest of waterfowl to extend frameworks. If changes are to be made now, extensions should be available to all States. The Lower Mississippi Flyway proposal has triggered discussions regarding a southern coalition within the Atlantic Flyway, intended to pursue southern issues and framework extensions in that region.

The New York State Department of Environmental Conservation requested that the proposed framework extension be deferred for one year to allow adequate review by all Flyway Councils and the AHM working group. New York expressed concerns that the proposal was developed without Flyway Council review, was counter to AHM principles, that efforts on framework extensions would delay the incorporation of eastern mallards into the decision process, future harvest opportunity for all Flyways could be adversely affected, eastern duck stocks could be impacted, and that adoption of the proposal would spawn additional requests from special interest groups. The Department stated that when regulation packages were set and agreed to by all Councils, it was understood that they would be stable for several years, New York recommended that the Flyway Councils and the AHM working group work this year to devise a strategy for 1999.

The North Dakota Game and Fish Department stressed that waterfowl harvest management should be based on sound scientific information and objectives established through the Flyway Council process. North Dakota expressed great concern over the unfairness of extending southern frameworks when northern States have benefitted little from special teal seasons and recently lengthened seasons. They believed if an extension is offered to southern States similar opportunity must be offered to all States.

The South Dakota Department of Game, Fish and Parks urged the Service to not extend the framework closing date in the southern part of the Mississippi Flyway, since all other Flyway Councils and the Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that framework dates not be changed. Such action would be totally unfair to all other States that are willing to use the AHM process to fairly and biologically determine the framework issue.

The Kansas Department of Wildlife & Parks strongly opposed the proposal to offer extended duck hunting season framework dates to States in the lower region of the Mississippi Flyway, stating that it is blatantly unfair to other States that may be interested in such changes, and that it will establish an undesirable precedent regarding how we implement harvest regulations.

The Delaware Department of Natural Resources opposed a framework extension for the southern Mississippi Flyway because it conflicted with recommendations from all Flyways

Councils (1997) to maintain consistency in regulatory packages and it could negatively affect other States through redistribution of harvest. Delaware urged all four Councils and the AHM working group work to recommend a specific strategy for 1999 to address all concerns.

The Missouri Department of Conservation opposed the framework extension due to concerns regarding biological impacts on the waterfowl resource including changes in harvest timing and composition (age, species, and sex), the inequitable provision of the extension opportunities, and conflicts with the AHM process. Missouri believes adopting this proposal would set an unfortunate precedent and have negative implications for the future of cooperative waterfowl and wetland management.

The Michigan Department of Natural Resources strongly opposed the extension proposal on the basis of its conflict with previous recommendations of the Upper-Region Regulations Committee. Michigan believed if extensions were implemented, both early and late extensions should be offered to all States.

The Connecticut Department of Environmental Protection opposed the extension proposal and requested the Service defer action until full review by all Flyways is possible. Connecticut voiced concern over reduced hunting opportunity across the nation and impacts to black ducks which are more vulnerable in late winter.

The Minnesota Department of Natural Resources continued to support recommendations of the Upper-Region Regulations Committee of the Mississippi Flyway Council and the other 3 Flyway Councils for no change in framework dates. They believe the extension proposal is extremely divisive and threatens the future of the Flyway Council system and AHM. They stated that the potentially negative physiological impacts on ducks of extensions have not been addressed and should be evaluated by States and the Service prior to implementing extensions. Minnesota believed northern States have the strongest argument for framework extensions because of weather-related limitations to long duck seasons. The extension proposal was contrary to the cooperative process of establishing migratory bird regulations; however, if it is offered, it should be offered to all States.

The Wisconsin Department of Natural Resources supported no change in framework dates. Wisconsin found the extension proposal completely unacceptable because it increases inequity, citing the current higher hunter success rates in southern States, frequently truncated season length in northern States due to freeze-up, and differences in special-teal-season availability. Wisconsin expressed concern about the possible impacts of late-winter hunting on mallard pair formation and nutrient-reserve accumulation. Wisconsin opposed offering southern States an extension, but believed if the extension was granted to southern States, northern States must be offered an extension on season opening dates.

The Illinois Department of Natural Resources stated the extension proposal was patently unfair because it was not available to all States in all Flyways. The State remains concerned about biological impacts on duck pair formation and acquisition of body reserves. Illinois believed this is an issue of national consequence and without time for a full public debate and analysis before the 1998 season, the Service should postpone implementation of any framework extensions until at least the 1999 season. However, if extensions are implemented, the offset penalty should be determined by the Service or third party and Illinois should be allowed to split the duck season in their three zones.

The Oklahoma Department of Wildlife Conservation was strongly opposed to the extension proposal. Oklahoma believed that the proposal seriously undermines the long-standing cooperative Flyway and Service process for establishing waterfowl hunting regulations and calls into question the Service's commitment to the AHM process. Oklahoma further recommended that the Service deny the framework extension until such time as the issue can be addressed through the AHM process and all States' interests are fairly and objectively considered.

The Wyoming Game and Fish Department opposed the framework extension because they believe that season recommendations should be based on Flyway/Service review and approval and not political considerations, the proposed extension threatens AHM, other States are not offered a similar opportunity, and the proposal creates animosity between States and erodes the cooperative framework of the Flyway Council system. They further encourage the Service to work with the Flyways to continue to develop and enhance AHM and believe that early and late framework issues should be addressed when the next round of AHM packages are developed.

The New Jersey Division of Fish, Game and Wildlife opposed implementation of framework extensions due to their commitment to the AHM process, concern regarding impacts on migrating wood ducks, and the potential to divide the flyway system.

The Wisconsin Conservation Congress opposed the framework extension proposal stating that it was in direct conflict with the principles of the Service to manage the resource for the benefit of all people.

The Delta Waterfowl Foundation did not support the framework extension proposal. While supporting the Service's goal of ensuring that nonparticipating States will not be impacted, they believed that reductions in bag limits and species restrictions should also be considered. They further stated that the Service should entertain other framework date extensions, such as opening dates.

The Alabama Waterfowl Association requested a January 31 extension in Alabama be experimental beginning in the 1998 season. The Association would accept a 10% penalty in hunting days. They cite conflicts between farmers and hunting-lease holders or hunters in mid-November when incomplete crop harvest prevents flooding of agricultural fields. The Association believed an extended framework would allow improved habitat management and availability at the start of the season and would have less impact on the resource than the additional hen in the bag recently offered.

Two individuals from Michigan, 45 from Wisconsin, 30 from Minnesota, 1 from Arkansas, 1 from Iowa, 1 from Florida, and 3 from Tennessee commented in opposition to the proposed extension of the framework closing date.

Three individuals from Alabama, 1 from Florida, 5 from Arkansas, 2 from Georgia, 31 from Tennessee, and 110 from Mississippi commented in favor of extending the framework closing date.

Service Response: Extensive comments were received regarding the May 29 proposal (63 FR 29518) to extend the framework closing date to January 31 in six States in the southern portion of the Mississippi Flyway (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee). In the proposal, those States would be permitted a framework date extension, provided it was accompanied by a reduction in season length sufficient to offset the expected increase in harvest. The Service's goal was to provide a later hunting opportunity that had been requested by southern Mississippi

Flyway States, without increasing overall harvest in those States or affecting hunting opportunities in other States and Flyways.

The Service's proposal has been severely criticized by three Flyway Councils and numerous States. Based on a review of those comments, there appear to be three primary reasons for dissatisfaction with the proposal:

(1) the perception of inequity because most States would be excluded unilaterally from participation;

(2) a concern that the proposal was developed largely outside the Flyway Council consultation process, and that the proposal would be finalized before the Councils had an opportunity to meet and discuss concerns or suggest alternatives; and

(3) technical concerns about the ability to predict the effects of a framework-date extension on harvests or duck populations, and apprehension about whether the Service could guarantee that the season-length reduction would be sufficient to completely offset the expected increase in harvest.

For these reasons, the Service is withdrawing its proposal to extend the closing date of the duck-hunting season in the southern Mississippi Flyway. However, it is clear that the issue of framework extensions and expanding both early-and late-season hunting opportunity is an issue of strong and continuing interest among the States and the public. The Service acknowledges and shares this interest. Therefore, the Service will work with the Flyway Councils to consider these issues on a broader basis. The Service endorses the interest of the National Flyway Council to provide a forum for this discussion, especially because the issue inherently involves perceptions regarding the fair and equitable distribution of hunting opportunity among all States. The Service also believes that the design of acceptable regulatory alternatives, including the specification of framework dates, will require a structured process in which to explore common goals, conflicts, and possible solutions. In the interim the Service will continue to use the set of regulatory alternatives established in 1997 which includes framework dates of approximately October 1 and January 20.

In considering its decision regarding the framework date issue, the Service recognized that there are existing species-specific regulatory strategies, most notably for blue-winged teal, that must be considered within the context of a comprehensive framework date review. Particular reference is made to the special September duck hunting season currently offered to Iowa. Unlike other Mississippi Flyway States, Iowa is allowed to hold up to 5 days of its regular duck hunting season in September, with the second segment not to begin prior to October 10. The Iowa September season focuses on providing additional hunting opportunity for lightly harvested teal, and is a version of special September teal seasons offered to all other Mississippi Flyway States south of Iowa. The Iowa season is discontinued along with all other September teal seasons when warranted by poor teal status. Iowa's harvest during their early 5-day segment is predominately teal (53% in 1997), and thus the regulation has been successful at targeting additional hunting opportunity on an underutilized resource.

Iowa first had the option of the September season on an experimental basis during 1979–84, and has conducted the season on an operational basis during 1985–87 and 1994-present. The season was not offered during 1988–93 pending a comprehensive review of teal season criteria, which was precipitated by a declining teal population. The Iowa season has been examined on several occasions, and reviewed and supported by Flyway Councils, including both the Upper and Lower Regulations Committees of the Mississippi Flyway Council. Given the upcoming evaluation of special September teal seasons in 1998/99 and the comprehensive review of the framework dates by the Flyway Councils over the next 2 years, all special species-specific seasons, including the Iowa season, will be further reviewed during these processes.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Considerations

As in the past, the Service designs hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are currently being conducted to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures previously proposed. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents and will be available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey.

Executive Order (E.O.) 12866

This rules establishing the frameworks (early- and late-season) for hunting seasons is economically significant and will be reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule establishes the regulatory alternatives for the 1998–99 duck hunting season.

E.O. 12866 also requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the 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? (5) Is the description of the rule in the ''Supplementary Information'' section of

the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov.

Paperwork Reduction Act

The Service examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR Part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, the information collection requirements of the Migratory Bird Harvest Information Program have been approved by OMB and assigned clearance number 1018–0015 (expires 08/31/1998). This information is used to provide a sampling frame for voluntary national surveys to improve Service harvest estimates for all migratory game birds in order to better manage these populations. The information collection requirements of the Sandhill Crane Harvest Questionnaire have been approved by OMB and assigned clearance number 1018–0023 (expires 09/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion its constitutes of the total population. The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Taking Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, the Service established what it believed were the longest periods possible for public comment. However, special circumstances involved in the establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes allowing comment periods past the dates specified is contrary to public interest.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1998–99 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: July 30, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310–55–P

FINAL REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1998-99 SEASON

	ATLANTIC FLYWAY				MISSISSIPPI FLYWAY				CENTRAL FLYWAY (a)				PACIFIC FLYWAY (b)(c)			
	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB
Begining Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20
Season Length	20	30	45	60	20	30	45	60	25	39	60	74	38	60	86	107
Daily Bag/ Possession	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	4 8	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit																
Mallard (Total/Female)	3/1	3/1	4/2	4/2	2/1	2/1	4/1	4/2	3/1	3/1	5/1	5/2	3/1	3/1	5/2	7/2
Pintail	<---ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY--->															
Black Duck	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-
H. Merganser	1	1	1	1	1	1	1	1	1	1	1	1	-	-	-	-
Canvasback	<---0 OR 1, ACCORDING TO THE SERVICE'S INTERIM CANVASBACK HARVEST MANAGEMENT STRATEGY--->															
Redhead	2	2	2	2	1	1	2	2	1	1	2	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2	-	-	-	-
Whistling Ducks	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	1	3	3	3	3	1	1	1	1	-	-	-	-

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various options as follows: very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all options, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Mangement Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all options except the liberal option, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

[FR Doc. 98–20900 Filed 7–31–98; 3:58 pm]

BILLING CODE 4310–55–C

federal register

Wednesday
August 5, 1998

Part IV

Department of Housing and Urban Development

Lead-Based Paint Hazard Control Program (FY 1998) Funding Award: QuanTech, Inc.; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4316–FA–03]

Announcement of Funding Award (Fiscal Year 1998); Lead-Based Paint Hazard Control; QuanTech, Inc.

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department to QuanTech, Inc. This announcement contains the name and address of the awardee and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Warren Friedman, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755–1785, ext. 159. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-Based Paint Hazard Control Program is authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).

QuanTech, Inc. will provide continued operations and improvements of a national lead service providers' listing (''The Lead Listing''), and continued research on the conduct and quality of lead-based paint (LBP) inspections. The Lead Listing (www.leadlisting.org and 1–888–LEADLIST) is a national lead service providers' listing system which improves the overall quality of lead hazard control services by providing to the public information to help consumers locate qualified lead service providers (lead inspectors, risk assessors, and abatement contractors) and EPA-recognized lead analytical laboratories in a timely fashion. In addition to providing this information, the system also provides public guidance on a wide variety of related lead hazard control support items.

This notice announces the award of $878,921 to QuanTech, Inc. which will be used to improve the quality of lead evaluation and hazard control services. In part, the grant will utilize the information gathered during the recently completed field study on lead-based paint inspections to help state and federal authorities develop quality control systems.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

QuanTech, Inc.,
1911 North Fort Myer Drive,
Suite 1000,
Rossyln, VA 22209
Amount of Grant: $878,921

Dated: July 30, 1998.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 98–20924 Filed 8–4–98; 8:45 am]

BILLING CODE 4210–01–P

federal register

Wednesday
August 5, 1998

Part V

Department of Housing and Urban Development

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (FY 1998) Funding Availability: Revision, Correction, and Extension of Application Deadline for Applicants in Alaska; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4344–N–02]

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages Fiscal Year 1998 Notice of Funding Availability; Revision, Correction, and Extension of Application Deadline for Applicants in Alaska

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA); revision, correction, and extension of application deadline.

SUMMARY: The purpose of this notice is amend the Fiscal Year 1998 Notice of Funding Availability for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages to implement a single application process for the FY 1998 funds allocated to the Alaska Area Office of Native American Programs (ONAP) and, subject to appropriation for FY 1999, those that may be allocated to the Alaska Area ONAP in FY 1999. This single application process was proposed in the initial NOFA published on June 1, 1998. This notice extends the application deadlines for applications being submitted to the Alaska ONAP. This notice also clarifies the application submission procedures by resolving discrepancies in the June 1, 1998 NOFA regarding the deadlines. This notice also corrects an error regarding the points assigned to one of the rating factors in the June 1, 1998 NOFA.

APPLICATION DUE DATE: The application due date for applicants in Alaska, whose applications must be submitted to the Alaska Office Native American Programs (ONAP), is extended to *October 1, 1998.* For all other applicants, the application due date remains *September 1, 1998,* as provided in the June 1, 1998 NOFA.

Mailed Applications. Applications will be considered timely filed if postmarked on or before 12 midnight on the application due date and received by the appropriate Area ONAP on or within 10 (ten) days of the application due date.

Applications Sent by Overnight/Express Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received on or before the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date and received by the appropriate Area ONAP on or within 5 (five) days of the application due date.

Hand Carried Applications. Hand carried applications to the appropriate Area ONAP will be accepted during normal business hours before the application due date. On the application due date, business hours will be extended to 6 p.m.

ADDRESSES FOR SUBMITTING APPLICATIONS: All applicants must submit their applications to the Area Office of Native American Programs specified in the June 1, 1998 NOFA.

FOR FURTHER INFORMATION CONTACT: For information about this notice, contact Robert Barth, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, P.O. Box 36003, 450 Golden Gate Ave., San Francisco, CA 94102; telephone (415) 436–8122. The TTY number is (415) 436–6594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

On June 1, 1998 (63 FR 29834), HUD published the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG) Fiscal Year (FY) 1998 Notice of Funding Availability (NOFA). Section I.(C)(4) of that NOFA (63 FR 29836) proposed biennial funding for applications in the Alaska Area Office of Native American Programs (ONAP) in order to reduce the considerable administrative burden to applicants. The proposal would establish a single application process for the FY 1998 funds allocated to the Alaska Area ONAP and funds that may be allocated to the Alaska Area ONAP in FY 1999, subject to appropriations. The June 1, 1998 NOFA asked for public comment on this proposal and indicated that if, after considering the comments, HUD decided to implement the proposal, HUD would publish an amendment to the NOFA.

The Alaska Area ONAP received 18 comments on this proposal. Most commenters favored the single application process. Many of the commenters favoring the single application approach recommended a one-month extension of the application due date, because more time would be needed to prepare an application to cover two year's funding. Therefore, HUD has decided to amend the June 1, 1998 NOFA to implement the single application process for applications submitted to the Alaska Area ONAP as proposed, and to extend the application due date for such applications by one month.

Alaska Area ONAP Single Application Processing for FY 1998 and FY 1999

HUD will screen, review, and rate all applications received from applicants in Alaska by the Alaska Area ONAP under the provisions and requirements of the June 1, 1998 NOFA. After HUD has completed the rating and developed a ranked list of projects, HUD will make grant awards of FY 1998 allocated funds until these funds are exhausted. HUD will make funding announcements for those ICDBG grant offers made with FY 1998 funds. The Alaska Area ONAP will retain applications not funded.

Subject to appropriations, HUD expects to use any FY 1999 funds allocated to the Alaska Area ONAP for grant offers to those applicants with the highest ranking retained applications until those funds are exhausted. HUD will not make FY 1999 ICDBG program grant offers or announcements until the FY 1999 appropriations are enacted and made available. The FY 1999 grant offers will also be contingent upon the applicant confirming in writing and providing such supporting documentation as is required to the Alaska Area ONAP within 30 days of the offer that:

(a) The applicant continues to meet performance threshold requirements;

(b) The project still meets all community development appropriateness and project specific threshold requirements; and

(c) No changes have occurred since the submission of the application that would affect the rating or viability of the project.

Clarification Regarding Application Due Dates/Times

Under the heading ''Application Due Date,'' the June 1, 1998 NOFA (63 FR 29834) provided specific procedures and deadlines for submitting applications, according to the method of submission (through the mail, by overnight/express delivery, or hand carried). Under the heading ''Changes From FY 1997 NOFA,'' however, the June 1, 1998 NOFA provided application submission information that was inconsistent with the information described under ''Application Due Date'' of the NOFA. Therefore, this notice clarifies that applications will be considered timely filed according to the specific procedures and deadlines provided in this notice under the heading ''Application Due Date,'' above. In summary, mailed applications must be postmarked on or before midnight on the application due date and received

by the appropriate Area ONAP on or within 10 days of the application due date. Applications sent via overnight/express delivery will be considered timely if received on or before the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date and received by the appropriate Area ONAP on or within 5 days of the application due date.

Correction of Points for Rating Factor 3 (Leveraging) for New Housing Construction

This notice also corrects an error regarding the points assigned to one of the rating factors in the June 1, 1998 NOFA. In the NOFA under Rating Factor 3 (Leveraging) for new housing construction (63 FR 29845; 2d column), in the table describing non-ICDBG percent of project cost, the June 1, 1998 NOFA incorrectly lists the points for 15 to 19.9 percent as 16 points. The number of points for this percentage range should be 6 points. HUD believes this may simply have been a printing error.

Finding and Certifications

All findings and certifications contained in the June 1, 1998 NOFA continue to apply.

Dated: July 31, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 98–20923 Filed 8–4–98; 8:45 am]

BILLING CODE 4210–33–P

federal register

Wednesday
August 5, 1998

Part VI

Environmental Protection Agency

SDWA Section 1401(4) Public Water System Definition as Amended by 1996 SDWA Amendments; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6136–7]

Definition of a Public Water System in SDWA Section 1401(4) as Amended by the 1996 SDWA Amendments

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing issuance of guidance on ''Definition of a Public Water System in SDWA Section 1401(4) as Amended by the 1996 SDWA Amendments.'' The guidance is published as an Appendix to this notice.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, or Jon Merkle, telephone (415) 744–1844.

SUPPLEMENTARY INFORMATION:

Background

The definition of a ''public water system'' (PWS) is central to delineating the scope of many Safe Drinking Water Act (SDWA) requirements. The 1996 amendments to the SDWA broadened the definition of ''public water system'' to include systems providing water for human consumption that deliver this water by ''constructed conveyances'', such as irrigation canals. Prior to the 1996 amendments, the SDWA defined the term public water system to include only piped water systems. The guidance published today is intended to interpret the new statutory language and provide guidance on this interpretation and suggested implementation to EPA Regions and States with primary enforcement responsibility for the PWS program.

The Agency published a draft of this guidance in the **Federal Register** on May 8, 1998. The Agency solicited comments on the draft guidance and, after consideration of numerous comments on the draft guidance, the Agency prepared the final guidance which is being published today. EPA has prepared a detailed response to comment document, which is available upon request and which will be posted on EPA's Office of Ground Water and Drinking Water Homepage, which can be accessed at www.epa.gov/ogwdw.

Dated: July 31, 1998.

J. Charles Fox,

Acting Assistant Administrator for Water.

Appendix—Definition of a Public Water System in SDWA Section 1401(4) as Amended by the 1996 SDWA Amendments

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Introduction

This document provides guidance to the primacy agencies [1] and the U.S. Environmental Protection Agency's (EPA's) regional offices in their implementation of the Safe Drinking Water Act's (SDWA) 1996 amendments to the definition of a public water system (Section 1401(4)).

This document incorporates and replaces the preliminary guidance on this topic issued December 6, 1996, by Assistant Administrator for Water Robert Perciasepe entitled ''Safe Drinking Water Act Amendment to Public Water System Definition.'' It is a collaborative effort between the Office of Water and the Office of Enforcement and Compliance Assurance (OECA). OECA has concurred with the contents of this document and will incorporate and implement it through its enforcement and compliance assurance directives and operating protocols.

Background

The term *public water system* (PWS) is central to delineating the scope of many SDWA requirements. Prior to the 1996 SDWA amendments, Section 1401 of the SDWA defined a *public water system* as ''a system for the provision to the public of piped water for human consumption if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.'' In *Imperial Irrigation District* v. *United States Environmental Protection Agency*, 4 F.3d 774 (9th Cir. 1993), the court ruled that the SDWA provisions governing PWSs did not apply to an irrigation district supplying residences, schools and businesses with untreated water through open canals. In response, Congress changed the definition of public water system to regulate under the SDWA ''water [provided] for human consumption through pipes or other constructed conveyances.'' This change reflected Congress' understanding that the human consumption of such untreated canal water could constitute a significant risk to public health, and that appropriate measures were warranted to provide consumers of this water with a level of health protection equivalent to that from drinking water standards. At the same time, Congress provided several means by which certain water suppliers could be excluded from this definition, and provided that systems newly subject to SDWA regulation under this amended definition would not be regulated until August 6, 1998.

The amended Section 1401(4) does several things. First, effective August 6, 1998, Section 1401(4)(A) expanded the definition of a PWS to include suppliers of water for human consumption that deliver their water through canals and other constructed conveyances. Second, Section 1401(4)(B)(i) supplies methods by which connections to these newly defined PWSs will not be considered ''connections'' if the systems or users at these connections have taken specific actions to ensure protection of public health. If, after the systems or users have taken these specific actions to ensure protection of public health, and as a consequence of such actions, the systems are no longer regarded as serving at least 15 service connections or 25 individuals, the systems will not be considered to be PWSs. Third, Section 1401(4)(B)(ii) also allows certain piped irrigation districts to no longer be considered public water systems if the districts or their users take specific actions to ensure public health.

As promised in the December 6, 1996 guidance, EPA convened an EPA-State work group to develop more detail on the interpretation and application of this new definition. State members of this work group included drinking water program representatives for Arizona, California, Georgia, Idaho, Texas and Washington. The work group consulted with thirteen individual irrigation water suppliers and irrigation trade associations within these States.

[1] Primacy agency refers to either the EPA or the State or the Tribe in cases where the State or Tribe exercises primary enforcement responsibility for the public water systems.

The workgroup also consulted with six organizations involved with community-based minority health and welfare issues and interviewed three persons who use canal water for human consumption. EPA published a draft of the guidance on May 8, 1998 (see 63 FR 25740–46), considered public comments on the draft, and made changes based on the public comments.

Application of Section 1401(4)

I. Systems Newly Defined as Public Water Systems

A. Statutory Language

As described above, effective August 6, 1998, Section 1401(4)(A) of the SDWA [2] expanded the definition of a PWS to read as follows:

> The term *public water system* means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes
> (i) any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system, and
> (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

This revised definition broadens the means for delivering water that will qualify a water supplier [3] as being a public water system from pipes to ''pipes or other constructed conveyances.'' Thus, as of August 6, 1998, in accordance with this provision and EPA's regulations, water systems providing water for human consumption through constructed conveyances to at least fifteen service connections or an average of twenty-five individuals daily at least 60 days per year are defined as public water systems subject to SDWA regulation. *See* 40 CFR § 141.2. EPA has interpreted the term *human consumption* to include drinking, bathing, [4] showering, cooking, dishwashing, and maintaining oral hygiene, and this interpretation has been upheld by the courts. *See United States* v. *Midway Heights County Water District*, 695 F. Supp. 1072, 1074 (E.D. Cal. 1988) (''*Midway Heights*'').

Under the final rule published in the **Federal Register** on April 28, 1998 (63 FR 23362, at 23367), states were given two years from the date of publication to adopt the new statutory definition of public water system quoted above, or a more stringent definition, in order to obtain or maintain primacy.

B. Interpretation of ''Constructed Conveyance''

As of August 6, 1998, systems that deliver water for human consumption through constructed conveyances other than pipes to the requisite number of connections and/or individuals are defined as PWSs subject to SDWA regulation. The term *constructed conveyance* is not limited by the SDWA as to the size of the conveyance or the character of the delivery system. The term refers broadly to any manmade conduit such as ditches, culverts, waterways, flumes, mine drains or canals. The term *constructed* conveyance does not include water that is delivered by bottle, other package unit, vending machine or cooler, nor does it include water that is trucked or delivered by a similar vehicle.[5]

Water bodies or waterways that occur naturally but which are altered by humans may, in some cases, be constructed conveyances. Whether a particular water body or waterway is a constructed conveyance for purposes of Section 1401(4) depends on the totality of facts that characterize whether the water body or waterway is essentially a natural water body or waterway, or whether it is essentially a manmade conduit. The primacy agency should use the following factors to decide whether a particular water body is a constructed conveyance. Specifically, the primacy agency should first decide whether a water body is manmade, or ''constructed,'' by determining whether or not it exists in its current configuration *substantially* from human modification where activities such as mining, dredging, channelization, or bed or bank modification are of an appropriate magnitude to change the character of the water body. Second, the primacy agency should determine whether the water body is a conduit, or ''conveyance,'' by examining who owns or controls the water and the reason why water is present: whether it is present perennially through natural precipitation and runoff or discharge of natural springs, or whether its flow is present primarily by human means and in order to convey the water to users as part of a network under the management of the water supplier. If a particular water body is both ''constructed'' and a ''conveyance'' based on the factors described above, at least as to particular users whose status as ''connections'' is in question, the water body is a constructed conveyance.

Primacy agencies should also determine whether to consider as part of a public water system, those natural waterway portions of a water delivery system composed in part of constructed conveyances.

While irrigation-related entities and their canals are likely to be the most common systems newly defined as PWSs under the expanded definition in Section 1401(4), mining and other industrial entities that convey water may also fit within the definition if their water is used for human consumption.

C. Identification of Public Water Systems Under the Revised Definition

Primacy agencies should examine their areas of jurisdiction to determine if there are any water suppliers providing water through constructed conveyances for human consumption that meet the new public water system definition.

The addition of ''constructed conveyances'' to the definition of a public water system presents new questions about how to apply two key, existing components of the definition to water suppliers using constructed conveyances. A detailed discussion of these two components is provided below.

Providing Water. The first component is whether the supplier is ''providing'' water within the meaning of Section 1401(4). New questions about this component arise because use of water from open conveyances may be less apparent than from piped systems. Thus, it is important to clarify those conditions under which a supplier of water through constructed conveyances would be considered to have ''provided'' certain users with water.

In describing a public water system, EPA's regulations and guidance use such terms as ''serves'' and ''delivers''—often though not always in the context of ''customers'' (see, *e.g.*, 40 CFR § 141.2). For the supplier to be providing water to users, there must be an explicit or implied arrangement or agreement of some kind between a supplier and individuals using water. A

[2] All references in this Guidance to Section 1401 refer to Section 1401 of the SDWA.

[3] As used in this Guidance, and as indicated in Section 1401(4)(C), the term *water supplier* broadly refers to any water provider that may be subject to regulation as a public water system under the SDWA. This term should not be confused with *supplier of water*, which is defined in the SDWA as ''any person who owns or operates a public water system''. *See* SDWA Section 1401(7).

[4] EPA interprets the term ''bathing'' to mean use of water for personal hygiene purposes in a home, business setting, school, etc. The term ''bathing'' does not refer to situations such as (1) swimming in an open canal or (2) incidental, casual contact with water from an open canal in connection with outdoor activities such as agricultural work, canal maintenance, or lawn and garden care.

[5] One or more of these water delivery methods may under certain circumstances be considered public water systems under existing interpretations of other parts of the definition of a public water system.

contractual, operating or service arrangement is the most obvious example of an explicit agreement or arrangement to provide water.

Where the existence of an explicit arrangement or agreement is not obvious from the facts, the primacy agency should decide whether or not there is an implicit arrangement or agreement based on two factors: whether the supplier knows or should know that the water is being taken, and whether the supplier has consented to it being taken. A supplier that takes actions that a property owner would ordinarily take to maintain his or her property rights against unauthorized diversions should be able to demonstrate that there is no implied arrangement or agreement to ''provide'' water. A supplier would not be expected to go beyond its normal inspections or operation of water conveyances to discover unauthorized diversions, or to do more than those actions typically used to maintain rights against the adverse possession of interlopers to show lack of consent.

Human Consumption. The second key component of the definition, which is distinct from the component as to whether a supplier is ''providing'' water, is whether water is being used for ''human consumption.'' Whether a water system is supplying water through constructed conveyances to a connection for human consumption should be determined by whether the water supplier knows or should know that users at that connection are using the supplier's water for human consumption. In *Midway Heights,* the court held that the county water district either knew or should have known to a substantial certainty that individuals were using the district's water for human consumption based on the locations and arrangements of the pipes and plumbing, the fact that a pipe ran from the system into a number of homes, and a specific provision in an agreement between the water district and the users instructing the users to make the water potable before using it for human consumption. The court further found that a ''waiver'' agreement between the water district and the users that purported to limit the use of the district's water to irrigation was ineffective to remove the water system's liability under the SDWA. Likewise, EPA does not consider a waiver signed by water users stating that they must not use or are not using water for human consumption to preclude the water supplier from being considered a PWS when the system knows or should know that it is supplying water for human consumption to at least fifteen connections or an average of twenty-five regularly served individuals.

In order for water suppliers to ascertain whether they may be defined as PWSs under the revised definition, the suppliers should undertake reasonable actions within their authority to ascertain their users' water use patterns (*e.g.,* surveys of any water users that might be using the water for human consumption). Water suppliers that make reasonable efforts to identify which of their users are using their water for human consumption will have identified all users for human consumption that they ''should know'' to exist, in accordance with the *Midway Heights* standard. While water suppliers should take the initiative to assess and characterize their water use situations to the primacy agency as a core element of such surveys, such suppliers can also offer their users the opportunity to describe their water use situations to the supplier. Suppliers should determine from users that might be using their water for human consumption whether the water they supply is currently used for any of the human consumptive uses outlined above, *i.e.,* drinking, bathing, showering, cooking, dishwashing, or maintaining oral hygiene, and, if so, which such uses. Suppliers should also document whether additional or alternative sources of water are used for human consumption, *e.g.,* whether a private well, bottled water, or hauled water is used, and for what purposes these additional sources of water are used. Suppliers should determine and document whether the users are connected to a central treatment plant or use a point-of-entry device. Some suppliers have already performed surveys to gather information regarding their users' water use patterns.

In addition to undertaking a survey or other reasonable actions to document water use patterns, water suppliers need to consider other available information that indicates that their users are in fact using the water for human consumption. As stated above, where a water supplier knows or should know that the requisite number of connections and/or individuals are using water it supplies for human consumption, the primacy State or EPA will consider the system to be a PWS. The results of any survey and other available information should provide a basis for ascertaining whether a water supplier has at least fifteen service connections or regularly serves at least twenty-five individuals and would therefore be considered a PWS. EPA or the primacy State may wish to request documented evidence of the suppliers' reasonable efforts to ascertain these water uses. A supplier's failure to make a reasonable effort to gather any necessary information and provide sufficient documentation will not excuse the supplier from liability under the SDWA.

Primacy agencies should determine what form of records they will need from water suppliers to implement this provision. In addition to surveys, primacy agencies may want to consider requiring suppliers to submit annual affidavits documenting such information as the number of connections and users to whom they serve water, the uses of that water, and whether alternative water is supplied. Primacy agencies should also determine how often they will need updated records and how suppliers should maintain these records (*e.g.,* schedule, location, availability).

Pursuant to its regular oversight responsibilities, EPA can review State determinations of whether a system is a PWS. If EPA has serious concerns with the result of a State's determination, it will discuss these matters with the State regarding a potential reconsideration of the determination. In the event EPA cannot resolve the matter with the State, SDWA Section 1414 continues to authorize EPA to bring an enforcement action against a system which EPA believes is a PWS.

Under amended Section 1401(4), if a water supplier provides water for human consumption through constructed conveyances other than pipes to at least twenty-five individuals or fifteen connections at any time on or after August 6, 1998, the supplier is considered a PWS. Such a supplier may avoid regulation as a PWS only if it qualifies for the exclusions provided in Section 1401(4)(B)(i) and thereby reduces its ''connections'' to fewer than fifteen connections regularly serving fewer than twenty-five individuals. Information gathered in suppliers' surveys will aid the suppliers in deciding whether they may qualify for or should apply to the primacy agency for these exclusions, and in documenting their case for any such exclusions. The exclusions are described in detail in Section II below.

II. The Exclusions in Section 1401(4)(B)(i)

A. Statutory Language

Section 1401(4)(B)(i) provides limited exclusions to the ''connection'' component of the PWS definition to systems that deliver water through constructed conveyances other than pipes. These exclusions are not available to piped water systems, with the exception of certain piped irrigation

districts described in Section 1401(4)(B)(ii) and discussed in Section III, below.

Specifically, Section 1401(4)(B)(i) provides that a connection to a system that delivers water through constructed conveyances other than pipes is excluded from consideration as a ''connection'' for purposes of Section 1401(4)(A) under three circumstances:

(1) Where the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(2) where EPA or the State (where the State has primary enforcement responsibility for PWSs) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulations is provided for drinking and cooking;

(3) where EPA or the State (where the State has primary enforcement responsibility for PWSs) determines that the water provided for drinking, cooking, and bathing is treated (centrally or by point of entry) by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

If the application of one or more of these exclusions reduces the ''connections'' of a system providing water for human consumption (through constructed conveyances other than pipes) to fewer than fifteen service connections that serve fewer than twenty-five individuals, the supplier's water system is not a PWS regulated under the SDWA.[6]

However, if the supplier's remaining connections number fifteen or more, or if its remaining connections (even if they number fewer than fifteen) regularly serve at least twenty-five individuals, then the system is a PWS, although the excluded connections are not considered part of the PWS for as long as the exclusions apply and the system complies with any conditions governing their applicability.

B. Application of Section 1401(4)(B)(i)

1. The ''Other Than Residential Uses'' Exclusion. If water provided by a water supplier to a particular connection is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking, or similar uses, Section 1401(4)(B)(i)(I) applies to that connection. An example of where this exclusion would apply is when a user obtains all water for drinking, bathing, cooking, and similar uses from a private well, while the supplier provides the user with water for toilet flushing and/or outside irrigation.

While this provision is referred to in this guidance document as one of three exclusions, it does not contain the primacy agency determination process that the other exclusions contain. This provision simply clarifies that where water being provided to a certain connection is not being used ''for human consumption,'' that connection is not counted as a connection for purposes of the definition of a PWS in Section 1401(4).

2. The Alternative Water and Treatment Exclusions. In contrast to the ''other than residential uses'' exclusion described above, the ''alternative water'' and ''alternative treatment'' exclusions enable the primacy agency to determine that a water supplier that does meet the definition of a PWS is providing adequate health protection through the means specified in Section 1401(4)(B)(i)(II) or (III), and thus should not be regulated as a PWS.

The alternative water and alternative treatment exclusions apply only after the primacy agency has made the determination that the supplier complies with the exclusion criteria. If the primacy agency provides the supplier with a written determination that the exclusions in Sections 1401(4)(B)(i)(II) and (III) apply, then an eligible water supplier can reasonably rely on those exclusions, as long as they continue to be maintained in practice, to avoid classification as a PWS subject to the SDWA or to continue to provide users of ''excluded connections'' with water for human consumption that does not comply with the SDWA requirements applicable to PWSs. Suppliers seeking to exclude connections under Section 1401(4)(B)(i)(II) and/or (III) are responsible for ensuring that the primacy agency has sufficient information and documentation to demonstrate compliance with the exclusion criteria prior to the primacy agency's making a determination.

The Alternative Water Exclusion. A water supplier seeking to exclude a particular connection pursuant to Section 1401(4)(B)(i)(II) must demonstrate to the primacy agency that it is providing users at that connection with water for drinking and cooking from another source such as bottled water or hauled water. To qualify for this exclusion the supplier must provide the water to the users, at a reasonable location, not merely make it available. Whether the alternative water provided by the supplier is being provided at a reasonable location, such as on the user's doorstep or at the property line, will be determined by the primacy agency on a case-by-case basis. The supplier must demonstrate that it is actually providing to the users a minimum amount of water adequate to meet the users' drinking and cooking needs. The statute does not require the supplier to provide alternative water to meet the users' bathing needs. The exclusion does not apply to a connection where the users, not the supplier, provide alternative water for drinking and cooking. Under the SDWA, public water systems, rather than users, are responsible for providing safe drinking water absent an explicit statutory provision to the contrary (as in the alternative treatment exclusion, discussed below).

The primacy agency must also make the factual determination that the alternative water provided for drinking and cooking actually achieves the equivalent level of public health protection provided by applicable NPDWRs.[7] The primacy agency will make this determination based on its own criteria regarding which alternative water sources, and which associated documentation, operational, monitoring, reporting or other requirements, achieve the equivalent level of public health protection provided by applicable NPDWRs. The primacy agency should not necessarily assume that all varieties of bottled or hauled water will achieve the requisite level of public health protection absent information about the source and quality of the water. Where existing State regulations governing bottled and/or hauled water provide the equivalent level of public health protection provided by applicable NPDWRs, an alternative water purveyor's compliance with such regulations would provide adequate assurance that the alternative water actually achieves the requisite level of public health protection.

The water supplier may charge the users for the cost of the water supplied. The water supplier may also contract with a third party to deliver the water to the user, but in such case the supplier remains responsible for ensuring that the alternative water is provided to the users.

The Treatment Exclusion. A water supplier seeking to exclude a particular

[6] The three exclusions above do not otherwise affect the manner in which primacy agencies have defined a connection for the purposes of the SDWA.

[7] *Applicable national primary drinking water regulations* means the NPDWRs that would apply to the water supplier if all its connections excluded pursuant to the alternative water and treatment exclusions were counted as connections.

connection pursuant to Section 1401(4)(B)(i)(III) must demonstrate to the primacy agency that the water that it supplies for drinking, cooking and bathing at that connection is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user. A pass-through entity is an entity other than a water supplier referred to in Section 1401(4)(B) or its users that has been contractually engaged by the water supplier or the user to provide the treatment described in Section 1401(4)(B)(i)(III). The primacy agency should request that the supplier submit information and documentation demonstrating that central treatment or a point-of-entry treatment device is actually in use and treating all water used for drinking, cooking and bathing at that connection.

The primacy agency must also make the factual determination that the treated water actually achieves the equivalent level of public health protection provided by the applicable NPDWRs.[8] The primacy agency will make this determination based on its own criteria, which can include appropriate, independent third party (such as the National Sanitation Foundation) certification or performance verification, regarding which types of treatment devices may be used, and which associated operational, monitoring, reporting or other requirements are necessary, to ensure that the provided water actually achieves the equivalent level of public health protection provided by applicable NPDWRs. This third party verification generally describes a range of contamination levels in the raw (untreated) water that the treatment device can effectively address. Where local variability of source water conditions indicates a need—as where the raw water is highly contaminated—primacy agencies could choose to require more site-specific pilot testing. National third party performance verification will still be helpful in such cases as a guide to the water quality parameters (levels of contamination) that will (or will not) present problems for technology performance with the type of contaminant and treatment process involved. EPA's listing of point-of-entry compliance technologies may also be helpful, as the listings may include a statement of certain limitations on the use of a specific technology for compliance that can focus primacy agencies' attention on key performance parameters.

The words ''equivalent level of public health protection'' are meant to distinguish the situation of providers covered by this section from the situation of public water systems which must comply with all relevant aspects of the applicable regulations, including sampling and testing requirements and sometimes details of treatment. For example, a point-of-entry treatment device for filtration and disinfection might not comply with all requirements of relevant drinking water rules for monitoring, extent of surveillance of the disinfection process, and so forth. But, it would meet the ''equivalent level of public health protection'' requirement of this section if the quality of the water it produces is similar to that from central filtration and disinfection. Thus, this requirement is a performance standard providing that the quality of the water that affected residential users get should be similar to that from central treatment.

As stated in Section 1401(4)(B)(i)(III), treatment may be provided by the water supplier seeking to qualify for the exclusion, by a pass-through entity, or by the user. As the alternative treatment provision explicitly states that the user may provide the treatment, the supplier may choose but is not required to put the treatment in place, operate it or contract for these services itself. However, because the exclusion cannot be granted unless the treatment actually provides an equivalent level of public health protection, as a practical matter the supplier is responsible for ensuring that the alternative treatment is in place and remains effective to enable the primacy agency to make the necessary determination. For example, where users have already put alternative treatment in place and a supplier desires to continue this approach (that is, desires not to be involved itself in providing the alternative treatment), the supplier must provide adequate information to the primacy agency regarding the nature of the alternative treatment devices in place, including the level of health protection provided by these devices, and the existence of users' maintenance contracts that will ensure continued attainment of the required level of health protection.

III. The Exclusion in Section 1401(4)(B)(ii) for Certain Piped Irrigation Districts

All piped water systems providing water for human consumption to at least fifteen service connections or twenty-five regularly served individuals were defined as PWSs subject to SDWA regulation prior to the 1996 amendments. The amendments, however, provide a new exclusion for a specified group of these PWSs. Section 1401(4)(B)(ii) provides:

> An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

The exclusion provisions for qualifying piped irrigation districts were effective immediately upon passage of the 1996 amendments, in contrast with the expanded definition of public water system in Section 1401(4) as applied to constructed conveyance systems, which became effective on August 6, 1998.

An irrigation district referred to in Section 1401(4)(B)(ii) that would otherwise be defined as a PWS because it provides water for human consumption to at least fifteen connections or twenty-five regularly served individuals may avoid regulation as a PWS only if the primacy agency determines that *all* connections to the district that use the district's water for human consumption comply with subclause (II) or (III) of Section 1401(4)(B)(i). In contrast to systems providing water through constructed conveyances, these districts cannot avoid regulation as a PWS by simply ''reducing connections'' to fewer than fifteen connections serving fewer than twenty-five individuals by application of the exclusions in subclauses (II) and (III).

Only those irrigation districts that existed prior to May 18, 1994, and which provide primarily agricultural service through piped water systems with only incidental residential or similar use, are eligible to apply for these exclusions. The agricultural exclusion is available for commercial agriculture only. *Incidental residential or similar use* refers to human consumptive uses that are closely and functionally related to the primary agricultural service provided by the irrigation district. For example, the use of water for human consumption by the residents of a farmhouse working on agricultural property, from a connection used primarily for irrigation of that property, is incidental to the primarily agricultural use of the water. Similarly, human consumptive use by farmworkers residing on agricultural property is incidental to the primary agricultural service provided to that property by the district. In contrast, the use of water for human consumption from a connection to an irrigation district's pipe by a cluster of homes in a subdivision is not ''incidental'' to the

[8] *See* footnote 7.

district's primary agricultural service. If the character of the irrigation district's service changes so that the district no longer provides primarily commercial agricultural service with only incidental residential or similar use, the district would no longer qualify for this exclusion.

As with constructed conveyances, EPA and the primacy States should recognize that irrigation districts that make a serious effort to comply with the exclusions may nonetheless have a few users who refuse to cooperate.

Questions & Answers

Q1: How can primacy agencies identify water suppliers that may be newly defined as public water systems under the revised definition of public water system in Section 1401(4)?

A1: Primacy agencies will likely benefit by tapping into the knowledge base of their inspectors, following-up on citizen water quality complaints in irrigation and mining areas and developing inventories of irrigation and other constructed conveyance water suppliers. State agriculture departments, mining regulatory agencies and water resource departments can help develop these inventories. EPA recommends that the primacy agency send a letter to possible new PWSs informing them of the requirements of the 1996 amendments, the systems' potential SDWA responsibilities, and the systems' responsibility to determine whether and to how many of their users they are providing water for human consumption. EPA further recommends that primacy agencies suggest that the suppliers undertake reasonable actions (*e.g.*, surveys of water users that might be using the water for human consumption) to ascertain their users' water use patterns. Primacy agencies may wish to request that water suppliers providing water through constructed conveyances other than pipes provide them with annual, affirmative documentation such as affidavits or other certifications identifying the connections and users to whom they serve water, and identifying the connections and users using their water for human consumption and residential uses. This would be a means for primacy agencies to verify suppliers' documentation of the number of connections using their water for human consumption.

Q2: Because most water suppliers cannot inspect the interiors of their users' premises, on what evidence should the suppliers reasonably base their conclusions about a user's water use?

A2: A survey of users by the supplier that includes affirmative documentation as to the types of uses made of the water would be sufficient in most cases. However, when other evidence is available to the supplier, such as the lack of potable ground water in the area, empty water bottles awaiting pick-up, observations by company personnel, or patterns of water use at that connection, and such evidence indicates that human consumption of the water provided by the supplier is probable, such a survey should not be treated as conclusive.

Q3: Some water suppliers have warned their users that their water is nonpotable or is not for human consumption without treatment. Some have offered the water for sale only on the condition that it will not be used for human consumption. Other suppliers have required their users to sign statements that the water will not be used for human consumption or that the supplier is not liable (and the user assumes the risks) if the water is used domestically. If, nevertheless, a user uses water for human consumption in the face of these or similar conditions, must the water supplier count the user as a connection for the purposes of Section 1401(4)?

A3: Yes, in cases where the water supplier is delivering water that the suppliers knows or should know is being used for human consumption.

Q4: Where a water supplier provides water for human consumption through pipes or other constructed conveyances, does the geographic isolation of that water supplier's users affect whether such users are counted as connections or individuals served by the supplier?

A4: No. All water users to whom the water supplier provides water for human consumption are counted as connections or individuals served by the supplier regardless of their geographic isolation from other users, unless such connections are otherwise excluded pursuant to Section 1401(4)(B).

Q5: Are the exclusions in Section 1401(4)(B)(i) available to a water supplier that operates a system that consists primarily of non-piped constructed conveyances, but which includes some limited ''piping'' such as siphons to pass under roads or washes, short tunnels through hills, etc.?

A5: Yes, assuming the exclusion criteria apply. Only those suppliers that convey water by means other than pipes, and which are newly defined as public water systems under the expanded definition in Section 1401(4)(A), may use the exclusions available under Section 1401(4)(B)(i) to avoid regulation as a public water system. Suppliers whose piping consists only of the limited piping described above are not considered to convey water by pipes. A primacy agency should not make a determination that a supplier is a piped water system, either as to specific connections or entirely, if it would not have been able to do so under SDWA prior to the changes enacted to Section 1401(4). It should be noted that Section 1401(4)(B)(ii) provides a separate exclusion to a specified group of piped irrigation districts, as discussed in Section III above.

Q6: If a water supplier delivers water for human consumption through a constructed conveyance other than a pipe and reduces its number of countable connections through the operation of 1401(4)(B)(i) to 15 connections using water for human consumption does it have to supply SDWA-complying water only to these 15 connections or to all of its connections?

A6: The water supplier is under an obligation to supply SDWA-complying water only to the 15 connections.

Q7: Is an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use to at least fifteen service connections or twenty-five regularly served individuals considered to be a public water system if only some of its connections for human consumption are provided with alternative water or alternative treatment in accordance with subclause (II) or (III) of clause (i)?

A7: Yes. All connections to this kind of public water system using the water for human consumption must comply with subclause (II) or (III) of clause (i) before the supplier will not be considered a public water system.

Q8: Is the irrigation district described in Question 7 above under an obligation to comply fully with SDWA with regard to just the connections for human consumption that are not provided with alternative water or alternative treatment or to all of its connections using water for human consumption?

A8: The water supplier must comply fully with SDWA with regard to all of the connections to the public water system using water for human consumption.

Q9: What financial options are available to water suppliers that were newly defined as PWSs as of August 6, 1998 under the expanded definition of PWS in Section 1401(4) and to suppliers that wish to make use of the exclusions in Section 1401(4)(B)?

A9: There are various financial options available to those water suppliers. First, public water systems are eligible for Drinking Water State Revolving Fund loans—with subsidies available to disadvantaged communities. Even those water suppliers that wish to exclude connections through use of point-of-entry treatment or central treatment pursuant to Section 1401(4)(B)(i)(III) are eligible for these loans to provide such treatment. In addition, some communities known as ''colonias'' may be eligible for assistance through federal grants to border States intended to provide assistance to such communities to facilitate compliance with SDWA requirements, although such grant funding has not previously been appropriated for this purpose. Finally, water suppliers providing alternative treatment have all the financial options regarding amortization and charging costs to users they would have for any other capital investment.

Disclaimer

This document provides guidance to EPA Regions and States exercising primary enforcement responsibility under the SDWA concerning how EPA interprets the amended definition of *public water system* under the SDWA. It also provides guidance to the public and the regulated community on how EPA intends to exercise its discretion in implementing the statute and regulations defining *public water system*. The guidance is designed to implement national policy on these issues. The document does not, however, substitute for the SDWA or EPA's regulations, nor is it a regulation itself. Thus, it cannot impose legally-binding requirements on EPA, States, or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA and State decisionmakers retain the discretion to adopt approaches that differ from this guidance on a case-by-case basis where appropriate. EPA may change this guidance in the future.

(Authority 42 U.S.C. § 300f(4))

[FR Doc. 98–20904 Filed 8–4–98; 8:45 am]

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federal register

Wednesday
August 5, 1998

Part VII

The President

Proclamation 7112—Designation of American Heritage Rivers

Proclamation 7113—To Implement an Accelerated Schedule of Duty Elimination Under the North American Free Trade Agreement

Federal Register
Vol. 63, No. 150
Wednesday, August 5, 1998

Presidential Documents

Title 3—

The President

Proclamation 7112 of July 30, 1998

Designation of American Heritage Rivers

By the President of the United States of America

A Proclamation

In celebration of America's rivers, and to recognize and reward grassroots efforts to restore them, last year I announced the American Heritage Rivers initiative. My goal was to help communities realize their visions for their rivers by making it easier for them to tap existing programs and resources of the Federal Government. From across the country, hundreds of communities answered my call for nominations, asking that their rivers be designated American Heritage Rivers. I applaud all of the communities that have drawn together and dedicated themselves to the goal of healthy rivers, now and forever.

Having reviewed the recommendations of the American Heritage Rivers Initiative Advisory Committee, I am pleased to be able to recognize a select group of rivers and communities that reflect the true diversity and splendor of America's natural endowment, and the tremendous energy and commitment of its citizenry.

Pursuant to Executive Orders 13061, 13080, and 13093, I hereby designate the following American Heritage Rivers:

- The Blackstone and Woonasquatucket Rivers, in the States of Massachusetts and Rhode Island;
- The Connecticut River, in the States of Connecticut, Massachusetts, New Hampshire, and Vermont;
- The Cuyahoga River, in the State of Ohio;
- The Detroit River, in the State of Michigan;
- The Hanalei River, in the State of Hawaii;
- The Hudson River, in the State of New York;
- The Upper Mississippi River, in the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin;
- The Lower Mississippi River, in the States of Louisiana and Tennessee;
- The New River, in the States of North Carolina, Virginia, and West Virginia;
- The Rio Grande, in the State of Texas;
- The Potomac River, in the District of Columbia and the States of Maryland, Pennsylvania, Virginia, and West Virginia;
- The St. Johns River, in the State of Florida;
- The Upper Susquehanna and Lackawanna Rivers, in the State of Pennsylvania;
- The Willamette River, in the State of Oregon.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 98–21057
Filed 8–4–98; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7113 of July 31, 1998

To Implement an Accelerated Schedule of Duty Elimination Under the North American Free Trade Agreement

By the President of the United States of America

A Proclamation

1. On December 17, 1992, the Governments of Canada, Mexico, and the United States of America entered into the North American Free Trade Agreement (''the NAFTA''). The NAFTA was approved by the Congress in section 101(a) of the North American Free Trade Agreement Implementation Act (''the NAFTA Implementation Act'') (19 U.S.C. 3311(a)) and was implemented with respect to the United States by Presidential Proclamation 6641 of December 15, 1993.

2. Section 201(b) of the NAFTA Implementation Act (19 U.S.C. 3331(b)) authorizes the President, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)), to proclaim accelerated schedules for duty elimination that the United States may agree to with Mexico or Canada. Consistent with Article 302(3) of the NAFTA, I, through my duly empowered representative, entered into an agreement with the Government of Mexico and the Government of Canada, dated July 27, 1998, providing for an accelerated schedule of duty elimination for specific goods of Mexico. The consultation and layover requirements of section 103(a) of the NAFTA Implementation Act with respect to such schedule of duty elimination have been satisfied.

3. Pursuant to section 201(b) of the NAFTA Implementation Act, I have determined that the modifications hereinafter proclaimed of duties on goods originating in the territory of a NAFTA party are necessary or appropriate to (i) maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada and Mexico provided for by the NAFTA and (ii) to carry out the agreement with Canada and Mexico providing an accelerated schedule of duty elimination for specific goods.

4. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483) (''the Trade Act''), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (''the HTS'') the substance of the relevant provisions of acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

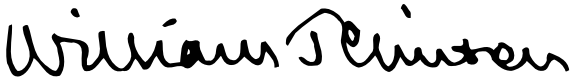
NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 201(b) of the NAFTA Implementation Act and section 604 of the Trade Act, do proclaim that:

(1) In order to provide for an accelerated schedule of duty elimination for specific goods, the tariff treatment set forth in the HTS for certain NAFTA originating goods is modified as provided in the Annex to this proclamation.

(2) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(3) The amendments made to the HTS by the Annex to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after August 1, 1998.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.



Billing code 3195–01–P

Annex

Modifications to the Harmonized Tariff
Schedule of the United States ("the HTS")

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after August 1, 1998, the Harmonized Tariff Schedule of the United States is modified as follows:

Section A. For the following HTS provisions, the Rates of Duty 1-Special subcolumn is modified by deleting the rate of duty and the "(MX)" following such rate and inserting "MX" in alphabetical order, in the parentheses following the "Free" rate of duty in such subcolumn.

2909.49.10	5208.12.60	5208.52.30	5210.41.80	5212.23.10
2909.49.15	5208.12.80	5208.52.40	5210.42.00	5212.23.60
2915.90.14	5208.19.40	5208.52.50	5210.49.20	5212.24.10
2915.90.18	5208.19.60	5208.59.40	5210.49.40	5212.24.60
2916.39.03	5208.19.80	5208.59.60	5210.49.60	5212.25.10
2916.39.06	5208.21.20	5208.59.80	5210.49.80	5212.25.60
2916.39.45	5208.21.40	5209.11.00	5210.51.40	5402.10.30
2916.39.75	5208.21.60	5209.19.00	5210.51.60	5402.10.60
2917.39.70	5208.22.40	5209.21.00	5210.51.80	5402.31.30
2921.22.10	5208.22.60	5209.29.00	5210.59.40	5402.31.60
2922.49.27	5208.22.80	5209.31.60	5210.59.60	5402.32.30
2924.29.75	5208.29.40	5209.39.00	5210.59.80	5402.32.60
2933.40.08	5208.29.60	5209.41.60	5211.11.00	5402.33.30
2933.40.15	5208.29.80	5209.43.00	5211.19.00	5402.33.60
2933.40.20	5208.31.40	5209.49.00	5211.21.00	5402.39.30
2933.40.26	5208.31.60	5209.51.60	5211.29.00	5402.39.60
2933.40.60	5208.31.80	5209.59.00	5211.31.00	5402.41.90
2933.40.70	5208.32.30	5210.11.40	5211.39.00	5402.43.10
2933.90.13	5208.32.40	5210.11.60	5211.41.00	5402.43.90
2934.90.05	5208.32.50	5210.11.80	5211.43.00	5402.59.00
2934.90.06	5208.39.40	5210.19.40	5211.49.00	5402.61.00
2934.90.08	5208.39.60	5210.19.60	5211.51.00	5402.62.00
2934.90.39	5208.39.80	5210.19.80	5211.59.00	5402.69.00
2934.90.44	5208.41.40	5210.21.40	5212.11.10	5403.20.60
3808.30.50	5208.41.60	5210.21.60	5212.11.60	5403.39.00
3811.90.00	5208.41.80	5210.21.80	5212.12.10	5403.49.00
3822.00.50	5208.42.30	5210.29.40	5212.12.60	5404.10.80
3824.90.28	5208.42.40	5210.29.60	5212.13.10	5405.00.30
3824.90.45	5208.42.50	5210.29.80	5212.13.60	5406.10.00
3824.90.90	5208.43.00	5210.31.40	5212.14.10	5406.20.00
5112.11.10	5208.49.20	5210.31.60	5212.14.60	5407.10.00
5112.19.20	5208.49.40	5210.31.80	5212.15.10	5407.20.00
5208.11.20	5208.49.60	5210.39.40	5212.15.60	5407.30.10
5208.11.40	5208.49.80	5210.39.60	5212.21.10	5407.30.90
5208.11.60	5208.51.40	5210.39.80	5212.21.60	5407.42.00
5208.11.80	5208.51.60	5210.41.40	5212.22.10	5407.43.10
5208.12.40	5208.51.80	5210.41.60	5212.22.60	5407.43.20

Annex (continued)

Section A. (con.)

5407.44.00	5408.32.10	5514.42.00	5609.00.10	6210.10.50
5407.53.10	5408.32.30	5514.43.00	5801.10.00	6302.21.30
5407.53.20	5408.32.90	5514.49.00	5801.21.00	6302.21.50
5407.61.11	5408.33.05	5515.11.00	5801.23.00	6302.21.70
5407.61.19	5408.33.10	5515.12.00	5801.24.00	6302.21.90
5407.61.21	5408.33.15	5515.13.05	5801.26.00	6302.22.10
5407.61.29	5408.33.30	5515.19.00	5801.31.00	6302.22.20
5407.61.91	5408.33.90	5515.21.00	5801.33.00	6302.29.00
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Section B. Subchapter VI of chapter 99 is modified as provided in this section.

(1). Subheadings 9906.29.24, 9906.29.40, 9906.38.22, 9906.52.08, 9906.54.01, 9906.55.01, 9906.55.02, 9906.56.01, 9906.59.03 and 9906.63.02 are deleted.

(2). The superior text preceding subheading 9906.38.03 which reads "Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:", the superior text immediately preceding subheading 9906.38.03, and subheadings 9906.38.03 and 9906.38.04 are all deleted.

(3). The following new subheadings are inserted in numerical sequence:

	[Goods of Mexico,...:]	
"9906.54.10	Solution dyed high tenacity single yarn of viscose rayon, the foregoing certified by the importer to be solution dyed (provided for in subheading 5403.10.30).....	Free (MX)
9906.54.20	Other solution dyed single yarn of viscose rayon, untwisted or with a twist not exceeding 120 turns/m, the foregoing certified by the importer to be solution dyed (provided for in subheading 5403.31).....	Free (MX)"

[FR Doc. 98–21058
Filed 8–4–98; 8:45 am]
Billing code 3190–01–C

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To facilitate the sale of certain land in Tahoe National Forest in the State of California to Placer County, California. (July 29, 1998; 112 Stat. 879)

H.R. 1460/P.L. 105–209
To allow for election of the Delegate from Guam by other

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To make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements. (July 29, 1998; 112 Stat. 881)

H.R. 2165/P.L. 105–211

To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes. (July 29, 1998; 112 Stat. 882)

H.R. 2217/P.L. 105–212

To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes. (July 29, 1998; 112 Stat. 883)

H.R. 2841/P.L. 105–213

To extend the time required for the construction of a hydroelectric project. (July 29, 1998; 112 Stat. 884)

H.R. 2870/P.L. 105–214

To amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests. (July 29, 1998; 112 Stat. 885)

H.R. 3156/P.L. 105–215

To present a congressional gold medal to Nelson Rolihlahla Mandela. (July 29, 1998; 112 Stat. 895)

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