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Contents

Federal Register

Vol. 64, No. 10

Friday, January 15, 1999

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Substance-specific applied research program; status update, 2759–2790

Agriculture Department
See Animal and Plant Health Inspection Service
See Food Safety and Inspection Service

Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2704–2705

Animal and Plant Health Inspection Service
RULES
Livestock and poultry disease and control:
Pseudorabies in swine; payment of indemnity, 2545–2550

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Chancellor Media Corp. et al., 2668–2677

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings:
Electronic and Information Technology Access Advisory Committee, 2622–2623
Passenger Vessel Access Advisory Committee, 2623

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

Centers for Disease Control and Prevention
NOTICES
Meetings:
African American gay men's consultation for HIV prevention, 2653–2654

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 2623–2624

Defense Department
See Navy Department
RULES
Acquisition regulations:
DOD contractors; supplies and services order form; instructions update, 2600
Para-aramid fibers and yarns, 2599–2600
Simplified acquisition procedures, 2595–2599
PROPOSED RULES
Acquisition regulations:
Taxpayer identification numbers and commercial and government entity codes, 2617–2620

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitation Research—
Disability and rehabilitation research projects and centers program, 2729–2733

Employment and Training Administration
NOTICES
Adjustment assistance:
Auburn Sportswear Co. et al., 2677–2678
Garden State Tannery et al., 2678–2679
L&S Dress Co., Inc., 2679
Willamette Industries et al., 2679–2680

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 2680–2681

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Metal casting industry of the future, 2632

Energy Research Office
NOTICES
Committees; establishment, renewal, termination, etc.:
High Energy Physics Advisory Panel, 2632

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 2573–2577
Illinois, 2577–2585
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Oil and natural gas production and natural gas transmission and storage, 2611–2615
Air quality implementation plans; approval and promulgation; various States:
Illinois, 2610–2611
NOTICES
Clean Water Act and Endangered Species Act:
Enhanced coordination; memorandum of agreement, 2741–2757
Environmentally preferable goods and services; voluntary consensus standards development, 2640–2641
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 2639–2640
Weekly receipts, 2639

Grants and cooperative agreements; availability, etc.:
Brownfields cleanup revolving loan fund pilots, 2641–2642
Meetings:
Oxygenate use in gasoline panel, 2639
Pesticide registration, cancellation, etc.:
Isofenphos, 2642–2644
Tolerance reassessment process; transparency increase; organophosphates; preliminary risk assessments, 2644–2646

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 2646

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 2646

Federal Aviation Administration
RULES
Airworthiness directives:
Agusta S.p.A., 2559–2560
Airbus, 2551–2555
Fokker, 2555–2556
Lockheed, 2556–2558
Robinson Helicopter Co., 2558–2559
Sikorsky, 2560–2562
Class E airspace, 2562–2565
Jet routes, 2565–2566
PROPOSED RULES
Class D and Class E airspace, 2605–2606
NOTICES
Passenger facility charges; applications, etc.:
Modesto City-County Airport-Harry Sham Field, CA; correction, 2698
Will Rogers World Airport, OK, 2698–2699

Federal Communications Commission
RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Rural health care universal service support mechanism; funding year change from calendar to fiscal year cycle, 2591–2595
Satellite communications—
Fixed-satellite and wireless services and government operations; spectrum allocations, 2585–2591
Television broadcasting:
Cable television systems—
Video programming distribution and carriage; competition and diversity development, 2595
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2646–2647
Reporting and recordkeeping requirements, 2647

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Duquesne Light Co. et al., 2632–2637
Environmental statements; notice of intent:
Wyoming Interstate Co., Ltd., 2637–2639
Applications, hearings, determinations, etc.:
Mountain Petroleum Corp.; correction, 2706
Viking Gas Transmission Co.; correction, 2706

Federal Highway Administration
NOTICES
Meetings:
Intelligent Transportation Society of America, 2699
Reports and guidance documents; availability, etc.:
Comprehensive truck size and weight study; scenario analysis (Vol. III), 2699–2701

Federal Housing Finance Board
RULES
Affordable housing program operation:
Program requirements clarification; correction, 2550–2551
NOTICES
Federal home loan bank system:
Community support review—
Members selected for review; list, 2647–2652

Federal Maritime Commission
PROPOSED RULES
Tariffs and service contracts:
Carrier automated tariff systems; correction, 2615–2617

Federal Reserve System
NOTICES
Federal Open Market Committee:
Domestic policy directives, 2653
Meetings; Sunshine Act, 2653

Fish and Wildlife Service
NOTICES
Clean Water Act and Endangered Species Act:
Enhanced coordination; memorandum of agreement, 2741–2757

Food and Drug Administration
RULES
Food additives:
Adhesive coatings and components—
Silver chloride-coated titanium dioxide, 2567–2568

Food Safety and Inspection Service
NOTICES
Meetings:
Australia's meat safety enhancement program; comment request, 2621–2622

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Community development work study program, 2735–2740
Facilities to assist homeless—
Excess and surplus Federal property, 2656

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Cabazon Resource Recovery Park, Cabazon Indian Reservation, CA; withdrawn, 2657

Southpoint Power Plant, Fort Mojave Indian Reservation, AZ, 2657–2658
Grants and cooperative agreements; availability, etc.:
Contract support funds; distribution and use, 2658–2659

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

Internal Revenue Service
RULES
Procedure and administration:
Timely mailing treated as timely filing/electronic postmark, 2568–2569
PROPOSED RULES
Procedure and administration:
Timely mailing treated as timely filing/electronic postmark, 2606–2610

International Trade Administration
NOTICES
Antidumping:
Vector supercomputers from—
Japan, 2624–2625

Justice Department
See Antitrust Division

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Labor Statistics Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2677

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2681–2682

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Squirrel River, AK; national wild and scenic river designation, 2659
Environmental statements; notice of intent:
Imperial County, CA; Newmont Gold Co. Mesquite gold mine, 2660
Wild horses removal:
Wyoming, 2660

Minerals Management Service
NOTICES
Memorandums of understanding:
Coast Guard; offshore facilities responsibilities, 2660–2667

National Institute of Standards and Technology
NOTICES
Information processing standards, Federal:
Data encryption standard; algorithm specifications, 2625–2628
Meetings:
Weights and Measures National Conference, 2628–2629

National Institutes of Health
NOTICES
Meetings:
National Human Genome Research Institute, 2654
National Institute of Allergy and Infectious Diseases, 2655 , 2655
National Institute of Environmental Health Sciences, 2655–2656
National Institute on Aging, 2654
National Institute on Deafness and Other Communication Disorders, 2654–2655
Scientific Review Center, 2656

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeastern United States fisheries—
Northeast multispecies, 2601–2604
Summer flounder, scup, and black sea bass, 2600–2601
PROPOSED RULES
Fishery conservation and management:
Atlantic coastal fisheries—
Atlantic lobster, 2707–2727
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico reef fish; correction, 2620
NOTICES
Clean Water Act and Endangered Species Act:
Enhanced coordination; memorandum of agreement, 2741–2757
Endangered and threatened species:
Candidate species list revision; information request, 2629–2630
Meetings:
North Pacific Fishery Management Council, 2630
Permits:
Marine mammals, 2631–2632

National Park Service
NOTICES
Meetings:
Acadia National Park Advisory Commission, 2667
Joshua Tree National Park Advisory Commission, 2667–2668

National Science Foundation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2682–2684
Meetings:
Computer-Communications Research Special Emphasis Panel, 2684
Engineering Education and Centers Special Emphasis Panel, 2684–2685

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Duluth, 2572–2573
USS Higgins, 2571–2572

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
RMI Titanium Co., 2685–2686
Union Electric Co., 2687–2688
Applications, hearings, determinations, etc.:
Florida Power & Light Co., 2685

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Allocation of assets—
Interest assumptions for valuing benefits, 2569–2570
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2689
Multiemployer and single-employer plans:
Interest rates and assumptions, 2689–2690

Postal Service
NOTICES
Meetings:
Universal Postal Union; international postal issues, 2690–2691

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees:
Technology training (EO 13111), 2791–2797

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 2701–2702

Securities and Exchange Commission
RULES
Investment advisers:
Advisers between Commission and States; reallocation of responsibilities; and transactions not deemed assignments; technical corrections, 2566–2567
NOTICES
Self-regulatory organizations; proposed rule changes:
MBS Clearing Corp., 2691–2693
New York Stock Exchange, Inc., 2693–2694
Pacific Exchange, Inc., 2694–2695

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 2695–2696

Surface Transportation Board
NOTICES
Railroad services abandonment:
CSX Transportation, Inc., 2702–2703

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

Trade Representative, Office of United States
NOTICES
Intellectual property rights protection, countries denying; identification, 2696–2697

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2697–2698
Aviation proceedings:
Agreements filed; weekly receipts, 2698

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2703
Meetings:
Debt Management Advisory Committee, 2703–2704

Separate Parts In This Issue

Part II
National Oceanic and Atmospheric Administration, 2707–2727

Part III
Education Department, 2729–2733

Part IV
Housing and Urban Development Department, 2735–2740

Part V
Environmental Protection Agency, 2741–2757

Part VI
Agency for Toxic Substances and Disease Registry, 2759–2790

Part VII
Presidential Documents, 2791–2797

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

13111.....0000
11348 (See 13111).....0000

9 CFR

52.....2545

12 CFR

960.....2550

14 CFR

39 (7 documents) 2551, 2552, 2555, 2556, 2558, 2559, 2560
71 (5 documents) 2562, 2563, 2565

Proposed Rules:

71.....2605

17 CFR

275.....2566

21 CFR

175.....2567

26 CFR

301.....2568

Proposed Rules:

301.....2606

29 CFR

4044.....2569

32 CFR

706 (2 documents) 2571, 2572

40 CFR

52 (4 documents) 2573, 2575, 2577, 2581

Proposed Rules:

52 (2 documents) 2610, 2611
63.....2611

46 CFR

Proposed Rules:

520.....2615

47 CFR

2.....2585
25.....2585
54.....2596
76.....2595

48 CFR

204.....2595
208.....2595
213.....2595
216.....2595
217.....2595
219.....2595
223.....2595
225 (2 documents) 2595, 2599
237.....2595
242.....2595
246.....2595
247.....2595
252 (2 documents) 2595, 2599
253 (2 documents) 2595, 2600

Proposed Rules:

204.....2617
212.....2617
213.....2617
252.....2617
253.....2617

50 CFR

648 (2 documents) 2600, 2601

Proposed Rules:

622.....2620
649.....2708
697.....2708

Rules and Regulations

Federal Register
Vol. 64, No. 10
Friday, January 15, 1999

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 52

[Docket No. 98–123–2]

RIN 0579–AB10

Pseudorabies in Swine; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are establishing animal health regulations to provide for the payment of indemnity by the United States Department of Agriculture for the voluntary depopulation of herds of swine known to be infected with pseudorabies. The payment of indemnity will encourage depopulation of infected herds, and therefore will reduce the risk of other swine becoming infected with the disease. We have determined that this action, which will accelerate existing pseudorabies eradication efforts, is necessary to protect swine not infected with pseudorabies from the disease.

DATES: Interim rule effective January 12, 1999. Consideration will be given only to comments received on or before March 16, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–123–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–123–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231, (301) 734–8073.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service's (APHIS's) regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies.

Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine. The disease, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus, and is known to cause reproductive problems, including abortion and stillborn death in neonatal pigs, and occasional death losses in breeding and finishing hogs. The cost of pseudorabies to pork producers alone in the United States is over $30 million annually. Of this amount, more than half, $17 million, represents the cost of vaccination. Another $11 million is attributable to pig deaths. The remainder is spent on testing.

A Federal eradication program for pseudorabies was implemented in the United States in 1989. The program is cooperative in nature and involves Federal, State, and industry participation. The Federal Government coordinates the National Program, the State Governments promulgate and enforce the intrastate regulations, and producers contribute by having their herds tested, purchasing their own vaccines, and conducting risk management practices, such as cleaning and disinfecting conveyances used to transport infected swine.

In fiscal year 1998, the Federal Government appropriated $8.6 million for its portion of the pseudorabies program. Appropriated Federal monies are used for disease surveillance and field staff. The monies spent by swine producers are used to prevent the transmission of pseudorabies within herds and to eliminate the disease from infected herds. Typically, a swine producer taking part in the eradication program will vaccinate all pigs in a herd once pseudorabies has been identified in the herd. Breeding sows in the herd will be vaccinated two to four times a year. Newborn pigs born to sows that have antibodies to the disease are immune. Sows develop antibodies to the disease either several weeks after being infected or through vaccination. The producer will wean young pigs in the herd at 2 to 3 weeks and segregate them from the rest of the herd in nurseries, where they will be raised for approximately 2 months. At that time, the producer will transfer them to ''finishing barns,'' where they will be raised to market weight. The producer will then ship the pigs to market under strict biosecurity methods (e.g., cleaning and disinfection of trucks previously used, or to be reused, for shipment of swine).

Breeding sows in the herd of origin that are infected with the disease are capable of producing multiple litters. Once infected, the sows go through a stage when they can shed the virus (i.e., transmit it to other swine). Following this stage, they develop antibodies to the disease. Although sows that have gone through the shedding stage have customarily been retained in the herd to produce additional litters, as of January 1, 1999, all States with pseudorabies will implement a ''test and removal'' requirement, to remove from each herd any sows identified with the pseudorabies virus. This removal of breeding sows will add to producer costs.

Dangers to Success of Program

Industry/State/Federal pseudorabies eradication efforts have been markedly successful. In 1992, for instance, approximately 8,000 herds of swine nationwide were infected with the disease. Today, approximately 1,000 herds are known to be infected. This represents slightly less than 1 percent of the herds of swine in the United States. The goal of the cooperative pseudorabies eradication program is the elimination of pseudorabies in the United States in the year 2000. However, at this time, the success of the program may be in jeopardy.

Because of the current depressed market conditions for swine, it appears that swine producers might decide to eliminate the costs they have been

incurring to participate in the pseudorabies eradication program. In November 1997, market swine were being sold at $45.10 per hundredweight. As of the fourth week of December 1998, market swine were valued at $11.90 per hundredweight. A surplus of live swine, due in part to reduced export markets, has slaughter facilities operating at maximum capability. Consequently, swine producers are being forced to continue feeding swine that cannot go to slaughter. Swine that are slaughtered are being sold at prices below the costs of feeding and transportation.

Cessation of eradication efforts, particularly the elimination of herd vaccination, is likely to result in an increase in the number of herds infected with pseudorabies. This growth in pseudorabies-infected herds will likely extend the amount of time necessary to eradicate pseudorabies, ultimately cost both the industry and Federal and State Governments additional monies in eradication efforts.

Payment of Indemnity

We have determined that all of the factors discussed above—the danger of elimination of eradication efforts among some swine producers, the relatively small number of herds currently infected with pseudorabies, and the markedly depressed market prices for swine—make this an appropriate time to accelerate the pseudorabies eradication effort by swift and thorough elimination of infected herds. This action would accelerate the efforts toward removal of infected swine already underway at the State level. Therefore, in this interim rule, we are establishing regulations that will allow the Department to pay indemnity to owners of infected herds who depopulate those herds. In addition to indemnity for the value of the animals, the Department will provide funding for trucking costs to disposal, for euthanasia and disposal costs, and for cleaning and disinfection of conveyances used for transporting the swine to disposal.

Although the regulations being established will allow for the payment of indemnity by the Department, participation in the indemnity program will be entirely voluntary for swine producers. Producers who choose not to have an infected herd depopulated will not be required to do so. However, such producers must still adhere to the previously established program rules and regulations.

We are setting forth the provisions of this interim rule in a new part 52 in title 9 of the Code of Federal Regulations.

Program Guidelines

Swine producers who choose to take part in the indemnity program may apply for participation as of the date of publication of this interim rule in the **Federal Register**. Further action will be taken upon APHIS' receipt of funding for the accelerated eradication program from the Commodity Credit Corporation. The indemnity program will extend from the date of publication of this interim rule for 6 months, or until funds allocated for the program are depleted, whichever comes first. In a separate document, APHIS Docket No. 98–123–1, published in the **Federal Register** on January 14, 1999, the Secretary of Agriculture gave notice that he is authorizing the transfer of $80 million in funds for the accelerated pseudorabies eradication program. Approximately 78 percent will be used for indemnity costs. The remainder will be used for euthanasia, transport, disposal, clean-up, and surveillance.

The owner of any herd that is determined to be a known pseudorabies infected herd will be eligible for payment of indemnity for depopulation. The definition of *known infected herd* will be the same as that set forth in 9 CFR part 85, which deals with the existing pseudorabies program. A known infected herd will be defined as any herd in which swine have been determined to be infected with pseudorabies, based on an official pseudorabies test or an approved differential pseudorabies test, or diagnosed by an official pseudorabies epidemiologist as having pseudorabies. Through the existing pseudorabies program, infected herds have already been identified. Monitoring and surveillance conducted by APHIS and State agencies may identify additional infected herds during the accelerated eradication program.

An *official pseudorabies epidemiologist* will be defined as a State or Federally employed veterinarian designated by the State animal health official and the APHIS veterinarian in charge to investigate and diagnose pseudorabies in livestock.

An *official pseudorabies test* will be defined as in part 85 to mean any test for the diagnosis of pseudorabies approved by the Administrator and conducted in a laboratory approved by the Administrator as listed in a Veterinary Services Notice listing such laboratories.

The following tests for the diagnosis of pseudorabies have been approved by the Administrator:

- Microtitration serum-virus neutralization test
- Virus isolation and identification test
- Fluorescent antibody tissue section test
- Enzyme-linked immunosorbent assay (ELISA) test, except for approved differential pseudorabies tests other than the glycoprotein I (gpI) ELISA test
- Latex agglutination test (LAT)
- Particle concentration fluorescence immunoassay (PCFIA) test

State, Federal, and university laboratories will be approved by the Administrator to conduct official pseudorabies tests following his determination that the laboratory has personnel trained at the Veterinary Services Diagnostic Laboratory at Ames, IA, assigned to supervise the test, follows standard test protocol, meets check test proficiency requirements, and will report all test results to State and Federal animal health officials. Lists of approved laboratories are periodically published in the Notices section of the **Federal Register**.

An *approved pseudorabies differential test* also will be defined as in current part 85 to mean any test for the diagnosis of pseudorabies that can distinguish vaccinated swine from infected swine; is produced under license from the Secretary of Agriculture under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*) with indications for use in the Cooperative State-Federal Pseudorabies Eradication Program; and is conducted in a laboratory approved by the Administrator.

Fair Market Value

The Department will pay fair market value for swine depopulated due to pseudorabies. The fair market value of the animals will be appraised by an APHIS employee and a representative of the State jointly, or, if the State authorities approve, by an APHIS official alone. The fair market value will be based primarily on a per pound compensation. The per pound compensation will be based on the weighted average base market prices of the previous week (as released in ''USDA–AMS Livestock Market News''). The per pound compensation amount will be updated each week. An additional producer cost offset will be paid according to whether the animal is a breeder pig, a baby pig or market hog less than 200 pounds, or a market hog greater than 200 pounds. Animals may be appraised in groups, provided that, where the appraisal is by head for cost offset purposes, each animal in the group is the same type. As noted, each

animal in the group will be the same value per pound.

Appraisals of animals will be reported on forms furnished by APHIS. Reports of appraisals will show the number of animals and the value per head or the weight and value by pound.

All premises, including barns, stockyards, and pens, and all cars and other conveyances, and the materials on any premises or conveyances used to house or transport swine for which indemnity is paid under the provisions of this interim rule must be cleaned and disinfected under the supervision of an APHIS employee or a State representative before being reused to house or convey swine. The producers of the swine for which indemnity is paid will be responsible for the costs of all cleaning and disinfection, except for the cleaning and disinfection of conveyances used to transport the swine to the disposal location. Once the swine purchased by the Department have been removed from the premises where they were kept, additional swine may not be moved onto those premises for at least 30 days following the approved cleaning and disinfection of premises.

Claims for the compensation for the value of animals destroyed must be presented, through the inspector in charge, to APHIS on a form furnished by APHIS. The owner of the animals must certify on the form that the animals covered either are or are not subject to any mortgage. If the owner states that there is a mortgage, the owner, and each person holding a mortgage on the animals, must sign forms furnished by APHIS consenting to the payment of indemnity to the owner or lienholder.

This interim rule provides that no indemnity will be paid if the infected animals have been moved or handled by the owner in violation of a law or regulation administered by the Secretary regarding animal disease, or in violation of a law or regulation for which the Secretary has entered into a cooperative agreement.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. We are making this action effective upon signature. This effective date is necessary to ensure that the pseudorabies accelerated eradication program is implemented as soon as possible to prevent the spread of pseudorabies.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 533 to make the rule effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. We have done a preliminary analysis of the potential costs and benefits of this rule in accordance with Executive Order 12866, as follows. A final analysis will be published in a subsequent document published in the **Federal Register**.

Potential Economic Impact

Pseudorabies is a herpes virus disease primarily affecting swine, that is known to cause reproductive problems, including abortion and stillborn death in neonatal pigs, and occasional death losses in breeding and finishing hogs. The disease is recognized to cause considerable economic loss. The cost to pork producers alone is over $30 million annually. Of this amount, $17 million represents the cost of vaccination. Another $11 million is attributable to pig deaths, and the remainder is spent on testing.

A Federal eradication program for this disease was implemented in the United States in 1989. The program is cooperative in nature and involves Federal, State, and industry participation. The Federal Government coordinates the National Program, the State Governments promulgate and enforce intrastate regulations, and producers contribute by testing their herds and purchasing vaccines. For the 1999 fiscal year, Congress appropriated close to $9.1 million for Federal Government participation in the pseudorabies program, including funds for monitoring and surveillance.

The pseudorabies eradication program has been markedly successful. By 1992, nearly 8,000 herds had been identified as being infected with pseudorabies. Currently, there are just over 1,000 herds, or slightly less than 1 percent of the total number of U.S. herds, left remaining under quarantine for pseudorabies in the United States. As of September 30, 1998, herds under quarantine were distributed as follows. (Preliminary information available to APHIS indicates that some of these numbers have decreased since September.)

NUMBER OF HERDS UNDER QUARANTINE AND SWINE BY STATE

States	Herds under quarantine	Number of swine
Arkansas	1	1,000
California	2	5,000
Florida	14	354
Illinois	14	3,912
Indiana	214	153,010
Iowa	632	479,520
Louisiana	1	7
Massachusetts	1	1,000
Michigan	3	18,902
Minnesota	147	180,714
Nebraska	17	1,100
North Carolina	226	850,757
Pennsylvania	6	6,815
South Dakota	2	1,100
Texas	2	14
Total	*1,291*	*1,719,755*

Due to the severe downturn in the value of market swine, progress in the pseudorabies eradication program may be threatened. A surplus of live swine, due in part to reduced export markets, has slaughter plants operating at maximum capacity and has led to depressed prices. Consequently, swine producers are being forced to continue feeding swine that cannot go to slaughter. Swine that are slaughtered are being sold at prices below the costs of feeding and transportation. As a result of depressed swine market prices, producers may stop vaccinating their herds because of the added expense. This could seriously affect the pseudorabies eradication program. Without vaccinations, the virus could spread to unvaccinated herds. This could increase production losses in the swine industry, increase costs to the Federal Government due to delays in eradicating the disease, and possibly jeopardize the trading position of the United States.

Pork production in the United States is a vital part of the economy. Over 19 billion pounds will be processed from about 99 million hogs in 1998. The economic impact of the industry on rural America is immense. Annual farm sales of swine in the United States usually exceed $11 billion. The retail value of pork sold to consumers exceeds $30 billion. In addition, the U.S. pork industry supports over 600,000 jobs and contributes to $23 billion in personal income.

To avoid the potential costs associated with the possible reduction of producer participation in the voluntary eradication program, we are commencing a voluntary, accelerated pseudorabies eradication program in which we will pay indemnity at fair market value for, and depopulate as quickly as possible, as many pseudorabies-infected herds as possible. Normally, the fair market value of these animals would make such an operation cost-prohibitive. However, the severely depressed value of swine in the United States offers us a unique window of opportunity to pay indemnity for these animals at a considerable savings.

This may provide several benefits. First, it will reduce the presence of pseudorabies in the United States sooner than the target date.

Second, if eradication is complete, the resources that we are currently expending on our pseudorabies program can be diverted to other disease eradication and prevention efforts, including surveillance and monitoring.

Third, swine producers will benefit by our payment of indemnity for the depopulation of infected herds. Although these producers will receive fair market value for these animals, and consequently, under present conditions, will not make a profit on their animals, they will at least be spared the continued expense of feeding and maintaining them.

The Secretary of Agriculture has authorized the transfer of $80 million in funds from the Commodity Credit Corporation to conduct the indemnity program. This is a transfer from taxpayers. Approximately 78 percent of this money ($62 million) will be used for indemnity costs, and the remainder will be used for euthanasia, transport, disposal (most likely through rendering), clean-up, and surveillance. Payment of indemnity will be based on fair market value, and the amount paid per pig will likely fluctuate during the course of the accelerated pseudorabies eradication program, which will last approximately 6 months. The amount authorized assumes 100 percent participation of owners with infected herds. However, participation may be limited if funds are exhausted due to increases in the fair market value above our current estimates. Funds will be paid out on a first-come-first served basis. Additionally, some producers may not choose to participate.

We anticipate that the expected decrease in the number of hogs available for market will cause an increase in the prices paid to swine producers by pork processors. In such a case, there would be some negative impact on pork processors. Currently, we do not have sufficient information to determine the effect on the market. Nor do we have sufficient information to determine the net benefit or the distributional impacts of the chosen option.

Options Considered

In assessing the need for this interim rule, we identified three alternatives. The first was to maintain the status quo. We rejected this option because it would not address the potential risks that may endanger the pseudorabies program.

The second option would have been to provide financial assistance to the swine industry for continuation of vaccination and other herd management practices to eliminate pseudorabies. The fiscal year 2000 target for the eradication of pseudorabies could have been achieved, but monitoring and surveillance would have continued. Although this option may be less costly than the option we chose, option 3 below, we did not choose it because it does not allow us to eradicate pseudorabies as quickly as the chosen option.

The third option, to provide indemnity payments to accelerate the eradication program by providing indemnity for the depopulation of pseudorabies-infected herds, was the one we chose. Depopulation of infected herds is the single most effective way to eliminate pseudorabies. The current severely depressed values of market swine present a unique opportunity to significantly accelerate pseudorabies eradication in a cost-effective way through depopulation. At the same time, pork producers will gain some compensation for pigs they are currently paying to feed, and that many owners cannot send to slaughter due to slaughter plants already being used to maximum.

Potential Impact on Small Entities

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. This interim rule establishes a voluntary program that allows swine producers to be paid indemnity for known pseudorabies-infected herds. Because slaughtering plants are operating at maximum capacity, it is likely that many of these swine could not be sold at market at this time, and the owners would otherwise receive no compensation for the swine. We do not anticipate any negative impact from this rule, other than perhaps some impact on pork processors who may eventually pay a higher price for swine. However, we will conduct further analyses of the potential impact of this rule. If we determine this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0137 to the information collection and recordkeeping requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–123–2. Please send a copy of your comments to: (1) Docket No. 98–123–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this interim rule.

This interim rule establishes regulations to provide for the payment of indemnity by the Department for the voluntary depopulation of herds of swine known to be infected with pseudorabies. In order to take part in the indemnity program, swine producers must apply for participation, must sign

a payment, appraisal and agreement form, and must certify as to whether any other parties hold mortgages on the herd. We are soliciting comments from the public concerning our information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden. Public reporting burden for this collection of information is estimated to average 0.26673 hour per response.

Respondents. Swine producers.

Estimated number of respondents. 1,300.

Estimated number of responses per respondent. 4.

Estimated total annual number of responses. 5,200.

Estimated total annual burden on respondents. 1,387.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 52

Animal diseases, Pseudorabies, Swine, Indemnity payments, Transportation.

Accordingly, we are amending 9 CFR, chapter I, subchapter B, by adding a new part to read as follows:

PART 52—SWINE DESTROYED BECAUSE OF PSEUDORABIES

Sec.
52.1 Definitions.
52.2 Payment of indemnity.
52.3 Appraisal of swine.
52.4 Disinfection of premises, conveyances, and materials.
52.5 Presentation of claims.
52.6 Mortgage against animals.
52.7 Claims not allowed.

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, and 134b; 7 CFR 2.22, 2.80, and 371.2(d).

§ 52.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any other employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, delegated to act in the Administrator's stead.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS employee. Any individual employed by the Animal and Plant Health Inspection Service who is authorized by the Administrator to do any work or perform any duty in connection with the control and eradication of disease.

Approved differential pseudorabies test. Any test for the diagnosis of pseudorabies that can distinguish vaccinated swine from infected swine; is produced under license from the Secretary of Agriculture under the Virus-Serum-Toxin Act of March 4, 1913, and subsequent amendments (21 U.S.C. 151 *et seq.*) with indications for use in the Cooperative State-Federal Pseudorabies Eradication Program; and is conducted in a laboratory approved by the Administrator.[1]

Department. The United States Department of Agriculture.

Herd. Any group of swine maintained on common ground for any purpose, or two or more groups of swine under common ownership or supervision, that are geographically separated but have an interchange or movement of animals without regard to whether the animals are infected with or exposed to pseudorabies.

Inspector in charge. An APHIS employee who is designated by the Administrator to take charge of work in connection with the control and eradication of disease.

Known infected herd. Any herd in which swine have been determined to be infected with pseudorabies based on an official pseudorabies test or an approved differential pseudorabies test, or as diagnosed by an official pseudorabies epidemiologist as having pseudorabies.

Materials. Parts of barns or other structures, straw, hay, and other feed for animals, farm products or equipment, clothing, and articles stored in or adjacent to barns or other structures.

Mortgage. Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity.

Official pseudorabies epidemiologist. A State or Federally employed veterinarian designated by the State animal health official and the veterinarian in charge to investigate and diagnose pseudorabies in livestock.

Official pseudorabies test. Any test for the diagnosis of pseudorabies approved by the Administrator and conducted in a laboratory approved by the Administrator. The following tests for the diagnosis of pseudorabies have been approved by the Administrator: Microtitration Serum-Virus Neutralization Test; Virus Isolation and Identification Test; Fluorescent Antibody Tissue Section Test; Enzyme-Linked Immunosorbent Assay (ELISA) Test, except for approved differential pseudorabies tests other than the glycoprotein I (gpI) ELISA test; Latex Agglutination Test (LAT); and Particle Concentration Fluorescence Immunoassay (PCFIA) Test.[2] State, Federal, and university laboratories will be approved by the Administrator following his determination that the laboratory: has personnel trained at the Veterinary Services Diagnostic Laboratory at Ames, Iowa, assigned to supervise the test; follows standard test protocol; meets check test proficiency requirements; and will report all test results to State and Federal animal health officials.[3]

Person. Any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

[1] The names and addresses of laboratories approved by the Administrator to conduct approved differential pseudorabies tests are published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, 4700 River Road Unit 37, Riverdale, Maryland 20737–1231. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: employs personnel trained at the National Veterinary Services Laboratories assigned to supervise the testing; follows standard test protocols; meets check test proficiency requirements; and will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

[2] Copies of the test protocols (Recommended Minimum Standards for Diagnostic Tests Employed in the Diagnosis of Pseudorabies (Aujeszky's Disease) are available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, Operational Support, 4700 River Road Unit 33, Riverdale, MD 20737–1231.

[3] Before the Administrator withdraws the approval of any laboratory, the Director of the laboratory will be given a notice by the Administrator of the proposed disapproval and the reasons for it, and the Director will have the opportunity to respond. In those instances where there are conflicts as to the facts, a hearing will be held to resolve such conflicts.

Pseudorabies. The contagious, infectious, and communicable disease of livestock and other animals, also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

Secretary. The Secretary of Agriculture of the United States, or any officer or employee of the Department delegated to act in the Secretary's stead.

State. Each of the States of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State representative. A person regularly employed in the animal health work of a State and who is authorized by that State to perform the function involved under a cooperative agreement with the United States Department of Agriculture.

Veterinarian in charge. The veterinary official of Veterinary Services, APHIS, who is assigned by the Administrator to supervise and perform official animal health work for APHIS in the State concerned.

§ 52.2 Payment of indemnity.

The Administrator is hereby authorized to agree, on the part of the Department, to pay 100 percent of the expenses of purchase, destruction and disposition of herds of swine that are destroyed because the herds are known to be infected with pseudorabies.

§ 52.3 Appraisal of swine.

(a) Herds of swine destroyed because the herds are known to be infected with pseudorabies will be appraised by an APHIS employee and a representative of the State jointly, or, if the State authorities approve, by an APHIS employee alone.

(b) The appraisal of swine will be based on the fair market value as determined by the meat or breeding value of the animals. Animals may be appraised in groups, provided that where appraisal is by the head, each animal in the group is the same value per head, and where appraisal is by the pound, each animal in the group is the same value per pound.

(c) Appraisals of swine must be reported on forms furnished by APHIS and signed by the owner of the swine. Reports of appraisals must show the number of swine and the value per head or the weight and value by pound.

(Approved by the Office of Management and Budget under control number 0579–0137).

§ 52.4 Disinfection of premises, conveyances, and materials.

All premises, including barns, stockyards and pens, and all cars and other conveyances, and the materials on any premises or conveyances used to house or transport swine for which indemnity is paid under this part must be cleaned and disinfected under the supervision of an APHIS employee after removal of the swine from the known infected herd. Premises may not be restocked with swine for at least 30 days following an approved cleaning and disinfection. The owner to whom the indemnity is paid will be responsible for expenses incurred in connection with the cleaning and disinfection, except for cleaning and disinfection of the conveyances used to transport the swine to the location of disposal.

§ 52.5 Presentation of claims.

Claims for compensation for the value of animals destroyed must each be presented, through the inspector in charge, to APHIS on a form furnished by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0137).

§ 52.6 Mortgage against animals.

When swine have been destroyed under this part, any claim for indemnity must be presented on forms furnished by APHIS. The owner of the swine must certify on the forms that the swine covered are, or are not, subject to any mortgage as defined in this part. If the owner states there is a mortgage, the owner and each person holding a mortgage on the swine must sign, consenting to the payment of indemnity to the person specified on the form.

(Approved by the Office of Management and Budget under control number 0579–0137).

§ 52.7 Claims not allowed.

(a) The Department will not allow claims arising out of the destruction of swine unless the swine have been appraised as prescribed in this part and the owners have signed a written agreement to the appraisals.

(b) The Department will not allow claims arising out of the destruction of swine that have been moved or handled by the owner or a representative of the owner in violation of a law or regulation administered by the Secretary regarding animal disease, or in violation of a law or regulation for which the Secretary has entered into a cooperative agreement.

(Approved by the Office of Management and Budget under control number 0579–0137).

Done in Washington, DC, this 12th day of January 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–969 Filed 1–14–99; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 98–18]

RIN 3069–AA73

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule; correction.

SUMMARY: The Federal Housing Finance Board (Finance Board) published in the **Federal Register** of May 20, 1998, a document containing an interim final rule that made technical revisions to the Affordable Housing Program (AHP or Program) regulation, to clarify Program requirements and improve the operation of the AHP. This document corrects amendatory instruction number 6 of the interim final rule to clarify the scope of the amendment to § 960.7(a) of the interim final rule.

EFFECTIVE DATE: The correction is effective June 19, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, or Roy S. Turner, Jr., Attorney-Advisor, (202) 408–2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

The current language in amendatory instruction number 6 of the interim final rule, published on May 20, 1998 (63 FR 27668, 27673), could be incorrectly construed to mean that paragraph (a) of § 960.7 (to be codified at 12 CFR 960.7(a)) was amended in its entirety, when the Finance Board intended to amend only the introductory text of § 960.7(a).

Accordingly, the Finance Board hereby corrects amendatory instruction 6, on page 27673, in the middle column, to read as follows:

6. Section 960.7(a) is amended by revising the introductory text to read as follows:

Dated: January 11, 1999.

By the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc 99–900 Filed 1–14–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–67–AD; Amendment 39–10993; AD 99–02–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 and A321 series airplanes. This amendment requires modification of the slat and flap control computer (SFCC) in the aft electronics rack. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the SFCC caused by computer software anomalies or contamination by conductive dust. This condition, if not corrected, could result in uncommanded slat retraction during takeoff and consequent insufficient wing lift available to complete a successful takeoff.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes was published in the **Federal Register** on April 6, 1998 (63 FR 16709). That action proposed to require modification of the slat and flap control computer (SFCC) in the aft electronics rack.

Comments Received

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

Support for the Proposal

Two commenters support the proposed rule.

Request to Reference Additional Service Bulletin Revisions

One commenter, an operator, states that it has already started accomplishment of Airbus Service Bulletin A320–27–1096, dated March 14, 1996, for its Airbus Model A320 series airplanes. Therefore, the operator requests that the proposed rule be revised to reference the original issue of that service bulletin, as well as Revision 01.

The FAA does not concur that the final rule should be revised. Airbus Service Bulletin A320–27–1096, dated March 14, 1996, and Revision 01, dated January 14, 1998, were both referenced in paragraph (a) of the proposal as appropriate sources of service information and are retained as such in the final rule. Therefore, no change to the final rule is necessary.

Additional Service Bulletin Reference

The FAA has reviewed Airbus Service Bulletin A320–27–1103, Revision 01, dated January 26, 1998 (for Airbus Model A321 series airplanes). The FAA has determined that the technical procedures described in that revision are equivalent to the technical procedures described in Airbus Service Bulletin A320–27–1103, dated June 14, 1996 (the appropriate service information for Airbus Model A321 series airplanes referenced in the proposed rule). Therefore, the FAA has revised paragraph (a) of this AD to include Revision 01 of that service bulletin as an additional source of service information.

Conclusion

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

Cost Impact

The FAA estimates that 118 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $7,080, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–02–04 Airbus Industrie: Amendment 39–10993. Docket 98–NM–67–AD.

Applicability: Model A320 series airplanes, as listed in Airbus Service Bulletin A320–27–1096, Revision 01, dated January 14, 1998; and Model A321 series airplanes, as listed in Airbus Service Bulletin A320–27–1103, dated June 14, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously. To prevent failure of the slat and flap control computer (SFCC), which could result in uncommanded slat retraction during takeoff and consequent insufficient wing lift available to complete a successful takeoff, accomplish the following:

(a) Within 24 months after the effective date of this AD, modify the SFCC 1 and SFCC 2 in the aft electronics rack, in accordance with Airbus Service Bulletin A320–27–1096, dated March 14, 1996, or Revision 01, dated January 14, 1998 (for Model A320 series airplanes); or Airbus Service Bulletin A320–27–1103, dated June 14, 1996, or Revision 01, dated January 26, 1998 (for Model A321 series airplanes); as applicable.

Note 2: After accomplishment of the modification required by paragraph (a) of this AD, Temporary Revision No. 4.02.00/02 may be removed from the Airbus Model A320 and A321 Airplane Flight Manuals.

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

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

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

(d) The modification shall be done in accordance with Airbus Service Bulletin A320–27–1096, dated March 14, 1996; Airbus Service Bulletin A320–27–1096, Revision 01, dated January 14, 1998; Airbus Service Bulletin A320–27–1103, dated June 14, 1996; or Airbus Service Bulletin A320–27–1103, Revision 01, dated January 26, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 97–085–099(B), dated March 12, 1997.

(e) This amendment becomes effective on February 19, 1999.

Issued in Renton, Washington, on January 7, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–813 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–103–AD; Amendment 39–10992; AD 99–02–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires installation of a rubber strip and replacement of connection sheets and the seal retainer on the avionics compartment access door with new parts; and installation of drip pans and additional drain gutters on the avionics racks. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent the trickling of water into the avionics compartment, which could result in avionics computer and equipment malfunctions.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on March 4, 1998 (63 FR 10572). That action proposed to require installation of a rubber strip and replacement of connection sheets and the seal retainer on the avionics compartment access door with new parts; and installation of drip pans and additional drain gutters on the avionics racks.

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

Request To Approve Alternate Method of Compliance

One commenter requests that Airbus Service Bulletin A320–25–1186, dated December 1, 1997, or subsequent revisions be approved as an alternate method of compliance with the requirements of paragraph (b) of the proposed rule. The commenter states that incorporation of Airbus Service Bulletin A320–25–1186 would provide a high level of safety by increasing the area and drainage in the 90VU avionics rack area, and would install the drain

pans over all portions of the 90VU rack as specified in Airbus Service Bulletin A320–24–1054.

The FAA has reviewed Airbus Service Bulletin A320–25–1186, dated December 1, 1997, and concurs with the commenter's request to approve it as an acceptable method of compliance with the requirements of paragraph (b) of this AD. The FAA has revised the final rule to add a note that reflects that approval.

However, the FAA cannot concur with the commenter's request to extend the approval to ''subsequent revisions'' of that service bulletin. The FAA does not reference service bulletins in an AD that have not yet been released. Office of the Federal Register (OFR) regulations require that either the service document contents be published as part of the actual AD language; or that the service document be submitted for approval by the OFR as ''referenced'' material, in which case it only may be referred to in the text of an AD. An AD may only refer to a service document that was submitted and approved by the OFR for ''incorporation by reference.'' [In order for operators to use later revisions of a specifically referenced document in an AD, either the AD must be revised to reference the specific later revisions, or operators must request approval of the revisions as an alternative method of compliance under the provisions of paragraph (c) of this AD.]

Add Another Required Service Bulletin

One commenter requests that, in addition to requiring accomplishment of Airbus Service Bulletin A320–24–1054, Revision 2, dated September 22, 1993, in paragraph (b) of the proposed rule, the FAA also require accomplishment of Airbus Service Bulletin A320–25–1186. The commenter notes that accomplishment of Airbus Service Bulletin A320–25–1186 provides additional protection for the 90 VU rack, and that the service bulletin is scheduled to be mandated by the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, with a compliance time of two years. The commenter also requests that a three-year compliance time [identical to the compliance time specified in paragraph (b) of the proposed rule for the installation of drip pans and additional drain gutters on the avionics racks in accordance with Airbus Service Bulletin A320–24–1054, Revision 2] be mandated for the accomplishment of Airbus Service Bulletin A320–25–1186.

The FAA does not concur with the commenter's request to require accomplishment of Airbus Service Bulletin A320–25–1186 in this rule. Requiring accomplishment of that service bulletin would expand the applicability of the AD to other airplanes, as well as require additional work for operators. To add such requirements would necessitate (under the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments received, and eventually issuing a final rule. The time required for those procedures may be as long as four additional months.

In light of the nature of the unsafe condition identified in this rule, the FAA has determined that further delay of this final rule action is not appropriate. However, the FAA may consider additional rulemaking action. Furthermore, as explained in a previous response to a commenter, the FAA has added Airbus Service Bulletin A320–25–1186 to this rule as an alternative method of compliance with paragraph (b) of this AD.

Request for Approval of Other Alternative Methods of Compliance

One commenter, the manufacturer, requests that revisions prior to Airbus Service Bulletins A320–24–1054, Revision 2, and A320–53–1070, Revision 6, be approved as alternative methods of compliance with the requirements of the proposed rule. The manufacturer advises that later revisions have been issued of both service bulletins that are referenced in the proposed rule.

The FAA partially concurs with the commenter's request. The FAA has determined that Airbus Service Bulletin A320–53–1070, Revisions 4, 5, 7, and 8 are, for the purposes of this AD, equivalent to the technical procedures specified in Revision 6, which is an appropriate source of service information specified in this AD. A new ''Note 2'' has been added to the AD to reflect this determination. However, the FAA has been unable to secure copies of Revisions 1, 2, and 3 of that service bulletin to determine if the procedures specified in those revisions are technically equivalent to Revision 6 of Airbus Service Bulletin A320–53–1070. Consequently, the FAA finds that operators who wish to use Revisions 1, 2, and 3 of Airbus Service Bulletin A320–53–1070 must submit a copy of the revision to the FAA with a request for approval of an alternative method of compliance in accordance with paragraph (c) of this AD.

Similarly, the FAA also has been unable to obtain and review copies of Revisions 1, 3, and 4 of Airbus Service Bulletin A320–24–1054. Consequently the FAA finds that those operators who wish to use revisions other than Revision 2, as specified in the AD, must submit a copy of that service bulletin with a request for approval of an alternative method of compliance in accordance with paragraph (c) of this AD.

Clarification of Applicability

One commenter, an operator, states that its fleet of airplanes is not affected by the proposed requirements of the Notice of Proposed Rulemaking (NPRM). The operator justifies its position by stating that the Airbus service bulletins referenced in the proposed rule specify that the modifications described in those particular service bulletins were incorporated on airplanes having manufacturer's serial number (MSN) 316 and subsequent, and that the operator's first Airbus Model A320 series airplane is MSN 435.

The FAA finds that clarification of the applicability is warranted. The FAA acknowledges that Airbus Service Bulletin A320–24–1054 (which is specified as one of the appropriate sources of service information in the proposal) specifies that it does not affect airplanes having MSN 316 and subsequent. However, Airbus Service Bulletin A320–53–1070 (which is specified as one of the appropriate sources of service information in the proposal) clearly specifies that it affects some airplanes manufactured after MSN 316.

The applicability of the proposed rule, which is retained in the final rule, affects ''Model A320 series airplanes on which Airbus Modification 22119 or 21999 has not been accomplished.'' The applicability of this AD is contingent on certain modifications that have not been accomplished rather than based on the effectivity of the referenced service bulletins. Therefore, regardless of the effectivity of the referenced service bulletins, this AD takes precedence.

Conclusion

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

Cost Impact

The FAA estimates that 118 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish

the actions specified in Airbus Service Bulletin A320–53–1070, Revision 6, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,273 per airplane. Based on these figures, the cost impact of this action on U.S. operators is estimated to be $171,454, or $1,453 per airplane.

It will take approximately 41 work hours to accomplish the actions specified in Airbus Service Bulletin A320–24–1054, Revision 2, at an average labor rate of $60 per work hour. Required parts will cost approximately $4,340 per airplane. Based on these figures, the cost impact of this action on U.S. operators is estimated to be $802,400, or $6,800 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–02–03 Airbus Industrie: Amendment 39–10992. Docket 98–NM–103–AD.

Applicability: Model A320 series airplanes on which Airbus Modification 22119 or 21999 has not been accomplished, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the trickling of water into the avionics compartment, which could result in avionics computer and equipment malfunctions, accomplish the following:

(a) Except for airplanes on which the access door has been removed, sealed, or blocked in accordance with Airbus Service Information Letter 53–052, dated August 30, 1991; or in accordance with a method approved by the FAA: Within 18 months after the effective date of this AD, install a rubber strip, and replace the connection sheets and the seal retainer on the avionics compartment access door with new parts, in accordance with Airbus Service Bulletin A320–53–1070, Revision 6, dated July 18, 1995.

Note 2: Accomplishment of Airbus Service Bulletin A320–53–1070, Revision 4, 5, 7, or 8, is acceptable for compliance to the requirements of paragraph (a) of this AD.

(b) Within 3 years after the effective date of this AD, install drip pans and additional drain gutters on the avionics racks in accordance with Airbus Service Bulletin A320–24–1054, Revision 2, dated September 22, 1993.

Note 3: Accomplishment of Airbus Service Bulletin A320–24–1054, Revision 1, 3, or 4, is acceptable for compliance to the requirements of paragraph (b) of this AD.

Note 4: Accomplishment of Airbus Industrie Service Bulletin A320–25–1186, dated December 1, 1997, also is acceptable for compliance with the requirements of paragraph (b) 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, International Branch, ANM–116, 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 5: Information concerning the existence of other approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–53–1070, Revision 6, dated July 18, 1995, and Airbus Service Bulletin A320–24–1054, Revision 2, dated September 22, 1993. These Airbus service bulletins contain the following list of effective pages:

Service bulletin reference and date	Page No.	Revision level shown on page	Date shown on page
A320–24–1054, Revision 2, September 22, 1993	1–5, 7–40	2	September 22, 1993.
September 22, 1993	6	Original	January 20, 1992.
A320–53–1070, Revision 6, July 18, 1995	1–3, 5, 7–12	6	July 18, 1995.
	4	2	November 10, 1992.
	6, 13–16, 18	4	June 15, 1993.
	17	5	October 4, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 6: The subject of this AD is addressed in French airworthiness directives 96–011–075(B), dated January 3, 1996, and 96–040–076(B), dated February 14, 1996.

(f) This amendment becomes effective on February 19, 1999.

Issued in Renton, Washington, on January 7, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–812 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–250–AD; Amendment 39–10995; AD 99–02–06]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0100 series airplanes, that requires modification of the aft cabin sidewall area to improve decompression venting and, for certain airplanes, modification of the aft wardrobe/stowage area door and installation of decompression panels to improve decompression venting. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent damage to the cabin floor in the event of sudden decompression in the cargo compartment, which could result in injury to passengers, reduced structural integrity of the airplane, and the loss of airplane systems.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0100 series airplanes was published in the **Federal Register** on October 15, 1998 (63 FR 55345). That action proposed to require modification of the aft cabin sidewall area to improve decompression venting. For certain airplanes, that action also proposed to require modification of the aft wardrobe/stowage area door and installation of decompression panels to improve decompression venting.

Comments Received

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

One commenter supports the intent of the proposed AD.

Request To Extend Compliance Time

One commenter, an operator, states that its entire fleet is affected by the proposed requirement to accomplish the modification described in Fokker Service Bulletin SBF100–25–082, Revision 1, dated May 7, 1998. The commenter states that the labor and out-of-service time required to accomplish the modification cannot be completed during routine overnight maintenance, and should be scheduled when an airplane is normally out of service for an extended period. The commenter further notes that the proposed 24-month compliance period does not provide sufficient time to accomplish the work in this manner, and will require airplanes to be taken out of service specifically to complete the mandated modification.

The FAA does not concur with the commenter's request to extend the compliance time. The FAA notes that the compliance time of both modifications is 26 months after the effective date of this AD, rather than 24 months as suggested by the commenter. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but also the manufacturer's and the Dutch airworthiness authority's recommendations regarding an appropriate compliance time, and an appropriate interval of time that parallels the normally scheduled maintenance for the majority of affected operators.

In consideration of all of these factors, the FAA has determined that further delay of this modification is not appropriate. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted that substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

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

Cost Impact

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

For all airplanes, it will take approximately 12 work hours per airplane to accomplish the required modification of the aft cabin sidewall area, at an average labor rate of $60 per work hour. Required parts will cost approximately $3,450 per airplane. Based on these figures, the cost impact of this required modification on U.S. operators is estimated to be $529,590, or $4,170 per airplane.

For airplanes equipped with an aft service/emergency door (70 airplanes), it will take approximately 6 work hours per airplane to accomplish the required modification of the aft wardrobe/stowage area door and installation of decompression panels, at an average labor rate of $60 per work hour. Required parts will cost approximately $9,000 per airplane. Based on these figures, the cost impact of this required modification on U.S. operators is estimated to be $655,200, or $9,360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–02–06 Fokker Services B.V.: Amendment 39–10995. Docket 98–NM–250–AD.

Applicability: Model F.28 Mark 0100 series airplanes, serial numbers 11244 through 11504 inclusive, 11506, 11507, 11509, 11512 through 11515 inclusive, 11517, 11519, 11520, 11522, 11523, and 11527; 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 damage to the cabin floor in the event of sudden decompression in the cargo compartment, which could result in injury to passengers, reduced structural integrity of the airplane, and the loss of airplane systems, accomplish the following:

(a) For airplanes listed in Fokker Service Bulletin SBF100–25–082, Revision 1, dated May 7, 1998: Within 26 months after the effective date of this AD, modify the aft cabin sidewall area to improve decompression venting in accordance with Fokker Service Bulletin SBF100–25–082, Revision 1, dated May 7, 1998.

(b) For airplanes listed in Fokker Service Bulletin SBF100–25–083, dated April 30, 1998: Within 26 months after the effective date of this AD, modify the aft wardrobe/stowage area door and install decompression panels to improve decompression venting in accordance with Fokker Service Bulletin SBF100–25–083, dated April 30, 1998.

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

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

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

(e) The actions shall be done in accordance with Fokker Service Bulletin SBF100–25–082, Revision 1, dated May 7, 1998; and Fokker Service Bulletin SBF100–25–083, dated April 30, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive BLA 1998–065 (A), dated May 29, 1998.

(f) This amendment becomes effective on February 19, 1999.

Issued in Renton, Washington, on January 7, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–811 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–241–AD; Amendment 39–10994; AD 99–02–05]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385–1 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model L–1011–385–1 series airplanes, that requires modification of the power drive units and the lower drive sprocket assemblies of the galley lift system. This amendment is prompted by a report indicating that, due to fatigue cracking, the primary and secondary drive shafts of the galley lift failed and caused the galley lift to drop to the lower level, injuring a flight attendant. The actions specified by this AD are intended to prevent such fatigue cracking of the primary and secondary drive shafts, which could result in complete fracturing of the secondary shaft; such fracturing could allow the galley lift to drop to the bottom of the shaft, and could result in possible injury to crewmembers.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the Federal Aviation

Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Lockheed Model L–1011–385–1 series airplanes was published in the **Federal Register** on October 27, 1998 (63 FR 57262). That action proposed to require modification of the power drive units and the lower drive sprocket assemblies of the galley lift system.

Comments

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

The commenters support the proposed rule.

Conclusion

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

Cost Impact

There are approximately 148 airplanes of the affected design in the worldwide fleet. The FAA estimates that 77 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,797 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $212,289, or $2,757 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–02–05 Lockheed: Amendment 39–10994. Docket 98–NM–241–AD.

Applicability: Model L–1011–385–1, L–1011–385–1–14, and L–1011–385–1–15 series airplanes, equipped with lower deck galleys; 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 fatigue cracking of the primary and secondary drive shafts, which could result in complete fracturing of the secondary shaft, and consequent dropping of the galley lift to the bottom of the shaft and possible injury to crewmembers, accomplish the following:

(a) Within 18 months after the effective date of this AD, modify the power drive units and the lower drive sprocket assemblies of the galley lift system in accordance with Lockheed Service Bulletin 093–25–294, Revision 2, dated April 13, 1981.

Note 2: The Lockheed service bulletin references Lear Siegler, Inc., Service Bulletins 21192–25–08, Revision 1, dated October 19, 1979; 21192–25–09, dated August 17, 1979; and 65806–25–03, dated June 9, 1979; as additional sources of service information for modification of the power drive units and the lower drive sprocket assemblies.

(b) As of the effective date of this AD, no person shall install on any airplane a power drive unit of the galley lift system having Lockheed part number (P/N) 671980–191 (Lear Siegler P/N 21192–004) or a lower drive sprocket assembly having Lockheed P/N 671980–171 (Lear Siegler P/N 65806–313) unless it has been modified in accordance with 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, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

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

(e) The modification shall be done in accordance with Lockheed Service Bulletin 093–25–294, Revision 2, dated April 13, 1981, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3	2	April 13, 1981.
2, 4–13	Original	June 29, 1979.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 19, 1999.

Issued in Renton, Washington, on January 7, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–810 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–79–AD; Amendment 39–10991; AD 99–02–02]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company (RHC) Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to RHC Model R22 helicopters, that currently requires initial and repetitive inspections of the forward flexplate (flexplate) at specified time intervals. This amendment also supersedes an existing priority letter AD that requires, within 25 hours time-in-service (TIS) or 15 calendar days, whichever occurs first, replacing the flexplate with an airworthy flexplate. This amendment requires the same replacement as the priority letter AD. This amendment is prompted by an accident in which the flexplate failed, causing loss of main rotor drive and rupture of the fuel tank. The actions specified by this AD are intended to prevent failure of the flexplate, which could result in failure of the main rotor drive system and subsequent loss of control of the helicopter.

DATES: Effective February 1, 1999.

Comments for inclusion in the Rules Docket must be received on or before March 16, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–79–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, Propulsion Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5265, fax (817) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA issued priority letter AD 94–11–01 on May 18, 1994 and AD 95–06–07 (60 FR 14619, March 20, 1995) on March 10, 1995. AD 95–06–07 superseded priority letter AD 94–11–01. Both AD's were prompted by three accidents involving failure of the flexplate. Both AD's also required an initial dye-penetrant inspection and repetitive visual inspections of the flexplate at intervals not to exceed 50 hours TIS, after accumulating 500 hours TIS or 2 years service life, whichever occurred first. AD 95–06–07 also exempted flexplate, part number (P/N) A947–1 E, and subsequent FAA-approved revisions, from the requirements of that AD, and provided that installation of flexplate, P/N A947–1 E or a subsequent FAA-approved revision to that P/N, constituted a terminating action for the requirements of that AD.

After the issuance of AD 95–06–07, another accident occurred in which the flexplate, P/N A947–1, failed, causing loss of the main rotor drive and rupture of the fuel tank. Prompted by that accident, the FAA determined that the repetitive inspections required by AD 95–06–07 did not correct the unsafe condition. Therefore, the FAA issued priority letter AD 98–14–08 on June 25, 1998, which specifies procedures for replacing flexplate, P/N A193–1 or P/N A947–1 A through D, with flexplate, P/N A947–1 E or F. Also, the FAA intended that Priority Letter AD 98–14–08 (Docket 98–SW–33–AD) supersede AD 95–06–07 (Docket 94–SW–22–AD), but did not state that in Priority Letter AD 98–14–08. To eliminate any confusion, this AD supersedes Priority Letter AD 98–14–08 (Docket 98–SW–30–AD), and AD 95–06–07, Amendment 39–9177 (Docket 94–SW–22–AD). This action is intended to prevent failure of the flexplate, which could result in failure of the main rotor drive system and subsequent loss of control of the helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other RHC Model R22 helicopters of the same type design, this AD supersedes AD 95–06–07 and priority letter AD 98–14–08 to prevent failure of the flexplate, which could result in failure of the main rotor drive system and subsequent loss of control of the helicopter. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, replacing the flexplate with an airworthy flexplate is required within 25 hours TIS or 15 calendar days, whichever occurs first, and this AD must be issued immediately.

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

The FAA estimates that 100 helicopters will be affected by this AD, that it will take approximately 1.5 work hours to replace the flexplate, and that the average labor rate is $60 per work hour. Required parts will cost approximately $536 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $62,600.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–79–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9177 (60 FR 14619, March 20, 1995), and by adding a new airworthiness directive (AD), Amendment 39–10991, to read as follows:

AD 99–02–02 Robinson Helicopter Company: Amendment 39–10991. Docket No. 98–SW–79–AD. Supersedes AD 95–06–07, Amendment 39–9177, Docket No. 94–SW–22–AD, and Priority Letter AD 98–14–08, Docket No. 98–SW–30–AD.

Applicability: Model R22 helicopters, with forward flexplate (flexplate), part number (P/N) A947–1, A through D, or P/N A193–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 25 hours time-in-service (TIS) or 15 calendar days, whichever occurs first, unless accomplished previously.

To prevent failure of the flexplate, which could result in failure of the main rotor drive system and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the flexplate and replace it with an airworthy flexplate, P/N A947–1 E or F, in accordance with following:

(1) With the clutch disengaged, support the forward end of the clutch shaft, P/N A166–1, and remove the forward flexplate, P/N A947–1 or A193–1, and the intermediate flexplate, P/N A947–2 or P/N A193–2. Record any shim locations for reinstallation.

(2) Install a zero TIS forward flexplate, P/N A947–1 E or F, and any shims that were noted. Use washers, P/N AN960–516 or AN960–516L, under the nut so that 2–4 threads are exposed. Torque the fasteners.

(3) Inspect the sheave alignment.

(4) Inspect the clutch shaft, P/N A166–1, angle.

(5) Reinstall the intermediate flexplate and shim.

Note 2: Robinson R22 Maintenance Manual, Sections 1.320, 7.230, 7.240, and 7.330 pertain to paragraphs (a)(2), (a)(3), (a)(4), and (a)(5) of this AD, respectively.

Note 3: Robinson Helicopter Company R22 Service Bulletin SB–75, dated November 22, 1994, pertains to the subject of this AD.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

(d) This amendment becomes effective on February 1, 1999.

Issued in Fort Worth, Texas, on January 6, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–910 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–55–AD; Amendment 39–11000; AD 99–02–09]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109C and A109K2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Agusta S.p.A. Model A109C and A109K2 helicopters. This amendment requires removing the main rotor pitch link assemblies, measuring the radial play of the upper and lower spherical bearings (bearings), and replacing any unairworthy bearings. This amendment is prompted by four reports of increased vibration of the helicopters caused by wear in the bearings of the main rotor pitch change link assembly. The actions specified by this AD are intended to detect

unairworthy bearings on the pitch change link assembly and to prevent increased vibration and subsequent reduced controllability of the helicopter.

EFFECTIVE DATE: February 19, 1999.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Agusta S.p.A. Model A109C and A109K2 helicopters was published in the **Federal Register** June 5, 1998 (63 FR 30660). That action proposed removing the main rotor pitch link assemblies, measuring the radial play of the bearings, and replacing any unairworthy bearings.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 3 helicopters of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1122 for the upper bearing and $995 for the lower bearing per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6891.

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

For the reasons discussed above, I certify that this 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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy may be obtained by requesting a copy from the Office of the Regional Counsel, Southwest Region Attention: Rules Docket No. 97–SW–55–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–02–09 Agusta S.p.A.: Amendment 39–11000. Docket No. 97–SW–55–AD.

Applicability: Models A109C and A109K2 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent main rotor pitch change link spherical bearing axial play due to wear, which could result in an increase in the vibration level and reduced controllability of the helicopter, accomplish the following:

(a) Within the next 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, remove the pitch change link assembly, part number (P/N) 109–0110–71.

(b) Measure the radial play at both the upper and lower spherical bearings. If the radial play of a bearing exceeds 0.2 millimeter, or .008 inch, replace the affected bearing with an airworthy bearing prior to further flight.

Note 2: Agusta Bollettino Technico Telegrafico No. 109–9, dated March 23, 1995, pertains to the subject of this AD.

(c) Reinstall the pitch change link assembly.

(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, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

(f) This amendment becomes effective on February 19, 1999.

Note 4: The subject of this AD is addressed in Registro Aeronautico Italiano (Italy) AD's 95–082 and 95–083, both dated March 28, 1995.

Issued in Fort Worth, Texas, on January 8, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–908 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–37–AD; Amendment 39–10999; AD 98–17–15]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, B, and C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–17–15 which was sent previously to all known U.S. owners and operators of Sikorsky Aircraft Corporation Model S–76A, B, and C helicopters by individual letters. This AD requires, before further flight, a one-time visual inspection of the swashplate assembly uniball bearing

retainer (retainer) for missing bolts, an inspection with a magnet to detect aluminum bolts, and replacing missing or aluminum bolts with airworthy steel bolts. This amendment is prompted by reports of the installation of aluminum bolts on swashplate assemblies. This condition, if not corrected, could result in failure of the swashplate assembly, loss of the main rotor, and subsequent loss of control of the helicopter.

DATES: Effective February 1, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–17–15, issued on August 13, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before March 16, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–37–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Robert Mann, Aerospace Engineer, FAA, Boston Aircraft Certification Office, ANE–150, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (781) 238–7190, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On August 13, 1998, the FAA issued Priority Letter AD 98–17–15, applicable to Sikorsky Aircraft Corporation Model S–76A, B, and C helicopters, which requires, before further flight, a one-time visual inspection of the swashplate assembly retainer for missing bolts and a one-time inspection of each retainer bolt using a magnet to detect the installation of aluminum retainer bolts. If retainer bolts are missing or aluminum bolts are found, the AD requires that they be replaced with airworthy steel bolts. That action was prompted by reports of the installation of aluminum bolts on swashplate assemblies, part numbers 76104–08000–044, –045, –046, and 76104–08500–041 and –043. This condition, if not corrected, could result in failure of the swashplate assembly, loss of control of the main rotor, and subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky Aircraft Corporation Service Bulletin 76–65–47, dated July 31, 1998 (SB). The SB describes procedures for a one-time visual inspection of the swashplate assembly retainer for missing bolts, an inspection with a magnet to determine whether steel bolts are installed, and replacing missing or aluminum bolts with airworthy steel bolts.

Since the unsafe condition described is likely to exist or develop on other Sikorsky Aircraft Corporation Model S–76A, B, and C helicopters of the same type design, the FAA issued Priority Letter AD 98–17–15 to prevent failure of the swashplate assembly, loss of the main rotor, and subsequent loss of control of the helicopter. The AD requires, before further flight, a one-time visual inspection of the swashplate assembly retainer for missing bolts, an inspection with a magnet to detect aluminum bolts, and replacing missing or aluminum bolts with airworthy steel bolts.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on August 13, 1998 to all known U.S. owners and operators of Sikorsky Aircraft Corporation Model S–76A, B, and C helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 157 helicopters of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3 per swashplate assembly. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $28,731, assuming one inspection and replacement of all retainer bolts in all the helicopters.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–37–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 98–17–15 Sikorsky Aircraft Corporation: Amendment 39–10999. Docket No. 98–SW–37–AD.

Applicability: Model S–76A, B, and C helicopters, serial numbers prior to 760488, with swashplate assembly, part numbers 76104–08000–044, –045, –046, or 76104–08500–041 or –043, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required before further flight, unless accomplished previously.

To prevent failure of the swashplate assembly, loss of control of the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Conduct a one-time visual inspection of the swashplate assembly uniball bearing retainer (retainer) to determine whether any retainer bolts are missing. Replace any missing retainer bolt with an airworthy AN3–5A bolt.

(b) Conduct a one-time inspection of each swashplate assembly retainer bolt (12 installed) with a magnet to verify that a steel bolt is installed. The steel bolts will attract the magnet, the aluminum bolts will not. Replace any aluminum bolt, one at a time, with an airworthy AN3–5A bolt.

Note 2: Sikorsky Aircraft Corporation Service Bulletin 76–65–47, dated July 31, 1998, pertains to the subject 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, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

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

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on February 1, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–17–15, issued August 13, 1998, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on January 7, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–907 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–59]

Amendment to Class E Airspace; Garden City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace areas at Garden City Municipal Airport, Garden City, KS. A review of the Class E airspace area for Garden City Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D.

In addition, the Airport Reference Point (ARP) is amended and the name of the Garden City Municipal Airport changed to Garden City Regional Airport. These changes are included in this document.

The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), amend the ARP, change the airport name, and comply with the criteria of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, May 20, 1999.

Comments for inclusion in the Rules Docket must be received on or before February 15, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–59, 601 East 12th Street, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace areas at Garden City, KS. A review of the Class E airspace for Garden City Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. This document amends the ARP and changes the name from Garden City Municipal Airport to Garden City Regional Airport. The amendment at Garden City Regional Airport, KS, will provide additional controlled airspace for aircraft operating under IFR, amend the ARP, change the airport name, and comply with the criteria of FAA Order 7400.2D. The areas will be depicted on appropriate aeronautical charts. Class E airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

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

Comments Invited

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

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

Commenters wishing to the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ACE–59.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ACE KS E2 Garden City, KS [Revised]

Garden City Regional Airport, KS
(Lat. 37°55′39″N., long. 100°43′28″W.)
Garden City VORTAC
(Lat. 37°55′09″N., long. 100°43′30″W.)

Within a 4.1-mile radius of the Garden City Regional Airport and within 2.2 miles each side of the Garden City VORTAC 004° radial extending from the 4.1-mile radius to 7 miles north of the VORTAC and within 2.2 miles each side of the Garden City VORTAC 171° radial extending from the 4.1-mile radius to 5 miles south of the VORTAC.

* * * * *

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

* * * * *

ACE KS E5 Garden City, KS [Revised]

Garden City Regional Airport, KS
(Lat. 37°55′39″N., long. 100°43′28″W.)
Garden City VORTAC
(Lat. 37°55′09″N., long. 100°43′30″W.)

That airspace extending upward from 700 feet above the surface within a 6.8 mile-radius of Garden City Regional Airport and within 4 miles east and 8 miles west of the 004° radial of the Garden City VORTAC extending from the airport to 16 miles north of the VORTAC.

* * * * *

Issued in Kansas City, MO, on December 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–991 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–60]

Amendment to Class E Airspace; Liberal, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Liberal Municipal Airport, Liberal, KS. A review of the Class E airspace area for Liberal Municipal Airport indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace has been enlarged to conform to the criteria of FAA Order 7400.2D. The intended effect of this rule is to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR), and comply with the criteria of FAA Order 7400.2D.

DATES: *Effective Date:* 0901 UTC, May 20, 1999.

Comments for inclusion in the Rules Docket must be received on or before February 15, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–60, 601 East 12th Street, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Liberal, KS. A review of the Class E airspace for Liberal Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Liberal Municipal Airport, KS, will provide additional airspace for aircraft operating under IFR, and comply with the criteria of FAA Order 7400.2D. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ACE–60.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

ACE KS E5 Liberal, KS [Revised]

Liberal Municipal Airport, KS
(Lat. 37°02′39″N., long. 100°57′36″W.)
Liberal VORTAC
(Lat. 37°02′40″N., long. 100°58′16″W.)
Liberal Municipal Airport ILS
(Lat. 37°03′27″N., long. 100°57′23″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Liberal Municipal Airport and within 2.6 miles each side of the 027° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles northeast of the VORTAC and within 2.6 miles each side of the 153° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles southeast of the VORTAC and within 3 miles either side of the ILS localizer course extending from the 6.4-mile radius to 12 miles south of the airport and within 3 miles each side of the 206° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles southwest of the VORTAC.

* * * * *

Issued in Kansas City, MO, on December 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–990 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–47]

Amendment to Class E Airspace; Grinnell, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Grinnell, IA.

DATES: The direct final rule published at 63 FR 64181 is effective on 0901 UTC, March 25, 1999.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on November 19, 1998 (63 FR 64181). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on December 29, 1998.

Jack L. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–992 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–46]

Amendment to Class E Airspace; Concordia, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Concordia, KS.

DATES: The direct final rule published at 63 FR 63140 is effective on 0901 UTC, March 25, 1999.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on November 12, 1998 (63 FR 63140). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 25, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on December 29, 1998.

Jack L. Skleton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–993 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–14]

RIN 2120–AA66

Amendment of Legal Description of Jet Route J–522 in the Vicinity of Rochester, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of Jet Route 522 (J–522) in the Rochester, NY, area, between the Toronto Flight Information Region/Control Area (FIR/CTA) and the Hancock Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME), NY. Specifically, this action adds Rochester as a navigation facility and changeover point on J–522. This action will enhance the management of air traffic operations and allow for better utilization of the navigable airspace.

EFFECTIVE DATE: Effective 0901 UTC, March 25, 1999.

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:

The Rule

This action amends 14 CFR part 71 by amending the legal description of J–522 located in the Rochester, NY, area, between the Toronto FIR/CTA and the Hancock VOR/DME. The FAA is taking this action to enhance the management of air traffic operations and allow for better utilization of the navigable airspace. The segment of J–522 between KLOPS DME Fix and the EXTOL Intersection is unusable for navigation in the current configuration and must be realigned. Realigning J–522 by adding Rochester as a navigation facility and changeover point will allow the airway to be used for navigation.

Since this action merely involves changes in the legal description of J–

522, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

Jet route designations are published in paragraph 2004 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The jet route designation listed in this document will be published subsequently in the Order.

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 the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1, as follows:

Paragraph 2004–Jet Routes

* * * * *

J–522 [Revised]

From Brainerd, MN; Green Bay, WI; Traverse City, MI; Au Sable, MI; Toronto, ON, Canada; INT Toronto 096° and Rochester, NY, 300° radials; Rochester, NY; Hancock, NY; to Kingston, NY. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, on January 7, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–996 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–1780; File Nos. S7–31–96; S7–7–86]

RIN 3235–AH59

Technical Amendments Under the Investment Advisers Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Corrections to final regulations.

SUMMARY: The Commission is making technical corrections to rules 204–1 and 202(a)(1)–1 under the Investment Advisers Act of 1940 (''Advisers Act''). Rule 204–1 was published Thursday, May 22, 1997 (62 FR 28112), under the Investment Advisers Act of 1940 (''Advisers Act''). Rule 204–1 relates to the investment adviser application for registration with the Commission. Rule 202(a)(1)–1 was published on Wednesday, September 17, 1986 (51 FR 32906), under the Advisers Act. Rule 202(a)(1)–1 relates to certain transactions not deemed ''assignments'' for purposes of section 205 of the Advisers Act.

EFFECTIVE DATE: The rule corrections will become effective on January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey O. Himstreet, Attorney, at (202) 942–0533, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

A. Rule 204–1

Rule 204–1 sets forth the circumstances that require the filing of an amended investment adviser registration form. Last year, the Commission adopted amendments to rule 204–1 to require that, among other things, an adviser file an amended Schedule I annually within 90 days of the end of the adviser's fiscal year.[1] In adopting that amendment and renumbering the provisions of the rule, paragraph (d) of rule 204–1 was inadvertently omitted from the rule.

Prior to effectiveness of the implementing rules, rule 204–1(d)[2] stated that every document required to be filed with the Commission pursuant to rule 204–1 shall constitute a ''report'' for purposes of sections 204[3] and 207[4] of the Advisers Act. This correction restores the language contained originally in paragraph (d) by placing this language in new paragraph (c) of rule 204–1.

B. Rule 202(a)(1)–1

Rule 202(a)(1)–1 provides that a transaction that does not result in a change of control or management of an adviser is ''not an assignment for purposes of section 205(2) of the Act.''[5] In 1987, Congress amended and renumbered section 205 of the Advisers Act,[6] and, as a result rule 202(a)(1)–1 contains an incorrect reference. The Commission is correcting this reference.

II. Certain Findings

Under the Administrative Procedure Act (''APA''), notice of proposed rulemaking is not required when the agency for good cause finds ''that notice

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[1] *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)], at section II.I.1.

[2] 17 CFR 275.204–1(d) (1995).

[3] 15 U.S.C. 80b–4. Section 204 requires SEC-registered advisers generally to ''make and keep for prescribed periods'' certain records, to furnish copies of those records as required by Commission rule, and to ''make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.'' Section 204 also grants Commission representatives authority to inspect the records of SEC-registered advisers. *Id.*

[4] 15 U.S.C. 80b–7. Section 207 makes it unlawful for any person willfully to make any untrue statement of a material fact or to omit to state any material fact required to be stated ''in any registration application or report'' filed with the Commission under section 203 or 204. *Id.*

[5] 17 CFR 270.202(a)(1)–1. Section 205(2) prohibited certain advisers from entering into, extending, or renewing any advisory contract that allowed an assignment of the advisory contract without consent of the party to the contract. *See* Section 205 of the Advisers Act [15 U.S.C. 80b–5 (1985)].

[6] 100 Pub. L. 181, 111 Stat. 1249 (Dec. 4, 1987) (codified in scattered sections of 15 U.S.C.). The amendments to section 205 and other sections of the federal securities laws also were part of a bill to extend authorization of appropriations to the Commission. *Id.* Congress also amended section 205 in 1996, among other reasons, to grant the Commission the ability to exempt any person or transaction from section 205(a)(1). Pub. L. No. 104–296, 110 Stat. 3416 (1996).

and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [7] Because these technical amendments adopted today merely corrects the inadvertent omission of paragraph (d) of rule 204–1, and make a technical, conforming amendment to rule 202(a)(1)–1, the Commission finds that publishing the amendment for comment is unnecessary.

Regarding rule 204–1, when the Commission proposed amendments to rule 204–1 in 1996, it did not propose to delete paragraph (d) of rule 204–1.[8] It thus appears unlikely that any commenter considered the deletion of paragraph (d) of rule 204–1 at any time during the comment period. Finally, if these changes to rule 204–1 were delayed to allow for notice and opportunity for comment, there may be confusion among advisers regarding whether an amendment to Form ADV would be considered a ''report'' for purposes of sections 204 and 207 of the Advisers Act.

Publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.[9] For the same reasons as described above with respect to notice and opportunity for comment, the Commission finds that there is good cause for having these correcting amendments become effective on January 15, 1999.

List of Subjects in 17 CFR Part 275

Reporting and recordkeeping requirements, Securities.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Accordingly, 17 CFR part 275 is corrected by making the following correcting amendments:

1. The authority citation for part 275 continues to read in part as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

§ 275.202 [Amended]

2. In § 275.202(a)(1)–1, following the word ''section,'' the reference to ''205(2)'' is corrected to read ''205(a)(2)''.

3. In § 275.204–1, add paragraph (c) to read as follows:

§ 275.204–1. Amendments to application for registration.

* * * * *

(c) Every document required pursuant to this section shall constitute a ''report'' within the meaning of sections 204 and 207 of the Act [15 U.S.C. 80b–4, 80b–7].

By the Commission.

Dated: January 7, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–920 Filed 1–14–99; 8:45 am]

BILLING CODE 8010–01–P

[7] 5 U.S.C. 553(b).

[8] *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1601 (Dec. 20, 1996) [61 FR 68480 (Dec. 27, 1996)].

[9] 5 U.S.C. 553(d).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 96F–0136]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food. This action is in response to a petition filed by Johnson Matthey Chemicals.

DATES: The regulation is effective January 15, 1999; written objections and requests for a hearing by Febraury 16, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1601, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 10, 1996 (61 FR 21473), FDA announced that a food additive petition (FAP 6B4503) had been filed by Johnson Matthey Chemicals, c/o Technical Assessment Systems, Inc., The Flour Mill, 1000 Potomac St. NW., Washington, DC 20007. The petition proposed to amend the food additive regulations in § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320) to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the additive is safe, (2) the food additive will have the intended technical effect, and (3) the regulations in § 175.320 should be amended as set forth below.

Silver chloride-coated titanium dioxide intended for use as a preservative in polymeric coatings for polyolefin films intended for use in contact with food is regulated under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) as a food additive and not as a pesticide chemical under section 408 of the act (21 U.S.C. 346a). However, this intended use of silver chloride-coated titanium dioxide may nevertheless be subject to regulation as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, manufacturers intending to market food-contact articles containing silver chloride-coated titanium dioxide for this intended use should contact the Environmental Protection Agency to determine whether this use requires a pesticide registration under FIFRA.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any

time on or before Febraury 16, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.320 is amended in the table in paragraph (b)(3) by adding entry ''(iv)'' to read as follows:

§ 175.320 Resinous and polymeric coatings for polyolefin films.

* * * * *

(b) * * *

(3) * * *

List of substances	Limitations
* * *	* * * *
(iv) Preservatives:	
Silver chloride-coated titanium dioxide.	For use only as a preservative in latex emulsions at a level not to exceed 2.2 parts per million (based on silver ion concentration) in the dry coating.

* * * * *

Dated: January 7, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–902 Filed 1–14–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8807]

RIN 1545–AW82

Timely Mailing Treated as Timely Filing/Electronic Postmark

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary and final regulations relating to timely mailing treated as timely filing and paying under section 7502. The temporary regulations generally reflect changes to the law made by the Internal Revenue Service Restructuring and Reform Act of 1998. The temporary regulations affect taxpayers that file documents or make payments or deposits. The text of the temporary regulations is also set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective date:* These regulations are effective January 15, 1999.

Applicability date: For dates of applicability, see § 301.7502–1T(f)(3).

FOR FURTHER INFORMATION CONTACT: Charles A. Hall (202) 622–4940 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Regulations on Procedure and Administration (26 CFR part 301) under section 7502 relating to timely mailing treated as timely filing and paying. Section 7502(c)(2) was amended by section 2003(b) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 725 (1998)), to authorize the Secretary to provide the extent to which the prima facie evidence of delivery and postmark date rules apply to electronic filing.

Explanation of Provisions

These temporary regulations add § 301.7502–1T(d) to provide that the date of an electronic postmark given by an authorized electronic return transmitter will be deemed the filing date if the date of the electronic postmark is on or before the filing due date. It also permits the Commissioner to enter into an agreement with an electronic return transmitter or to prescribe in forms, instructions, or other appropriate guidance the procedures under which the electronic return transmitter is authorized to provide taxpayers with an electronic postmark to acknowledge the date and time that the electronic return transmitter received the electronically filed document.

An electronic return transmitter is defined for purposes of the regulation the same as in the revenue procedures governing the Electronic Filing Program, currently Rev. Proc. 98–50 (1998–38 I.R.B. 8 (September 21, 1998)), and the On-Line Filing Program, currently Rev. Proc. 98–51 (1998–38 I.R.B. 20 (September 21, 1998)). An electronic postmark is a record of the date and time that an authorized electronic return transmitter receives the transmission of the taxpayer's electronically filed document on its host system.

For tax year 1998, the rules on electronic postmarks are effective for income tax returns filed through electronic return transmitters authorized to provide an electronic postmark pursuant to an agreement under the

Electronic Tax Administration's Request for Agreement released on November 26, 1997. For taxable years beginning after 1998, the rules on electronic postmarks are effective for documents submitted to electronic return transmitters that are authorized to provide an electronic postmark pursuant to § 301.7502–1T(d)(2).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting information: The principal author of these regulations is Charles A. Hall, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.7502–1T also issued under 26 U.S.C. 7502(c) * * *

Par. 2. Section 301.7502–1 is amended by:

1. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively.
2. Adding new paragraph (d).

The addition reads as follows:

§ 301.7502–1 Timely mailing treated as timely filing.

* * * * *

(d) [Reserved]. For further guidance regarding timely filing of electronically filed documents for taxable years beginning after December 31, 1997, see § 301.7502–1T(d).

* * * * *

Par. 3. Section 301.7502–1T is added to read as follows:

§ 301.7502–1T Timely mailing treated as timely filing (temporary).

(a) through (c) [Reserved]. For further guidance, see § 301.7502–1(a) through (c).

(d) *Electronically filed documents*—(1) In general. A document filed electronically with an electronic return transmitter (as defined in paragraph (d)(3)(i) of this section and authorized pursuant to paragraph (d)(2) of this section) in the manner and time prescribed by the Commissioner is deemed to be filed on the date of the electronic postmark (as defined in paragraph (d)(3)(ii) of this section) given by the authorized electronic return transmitter. Thus, if the electronic postmark is timely, the document is considered filed timely although it is received by the agency, officer, or office after the last date, or the last day of the period, prescribed for filing such document.

(2) *Authorized electronic return transmitters.* The Commissioner may enter into an agreement with an electronic return transmitter or prescribe in forms, instructions, or other appropriate guidance the procedures under which the electronic return transmitter is authorized to provide taxpayers with an electronic postmark to acknowledge the date and time that the electronic return transmitter received the electronically filed document.

(3) *Definitions*—(i) *Electronic return transmitter.* For purposes of this paragraph (d), the term *electronic return transmitter* has the same meaning as contained in section 3.02(4) of Rev. Proc. 98–50 (1998–38 I.R.B. 8 (September 21, 1998)), and section 3.02(3) of Rev. Proc. 98–51 (1998–38 I.R.B. 20 (September 21, 1998)) (See § 601.601(d)(2) of this chapter.), or in procedures subsequently prescribed by the Commissioner.

(ii) *Electronic postmark.* For purposes of this paragraph (d), the term *electronic postmark* means a record of the date and time (in a particular time zone) that an authorized electronic return transmitter receives the transmission of a taxpayer's electronically filed document on its host system. However, if the taxpayer and the electronic return transmitter are located in different time zones, it is the time in the taxpayer's time zone that controls the timeliness of the electronically filed document.

(e) through (f)(2) [Reserved]. For further guidance, see § 301.7502–1(e) through (f)(2).

(f)(3) *Electronically filed documents*—(i) *For taxable year 1998.* For taxable year 1998, paragraph (d) of this section only applies to electronically filed income tax returns transmitted to an electronic return transmitter that was authorized to provide an electronic postmark pursuant to an agreement entered into in response to submissions received in reply to the Electronic Tax Administration's Request for Agreement released on November 26, 1997.

(ii) *For taxable years after 1998.* For taxable years after 1998, paragraph (d) of this section applies to any electronically filed return, claim, statement, or other document transmitted to an electronic return transmitter that is authorized to provide an electronic postmark pursuant to paragraph (d)(2) of this section. This section expires on January 14, 2002.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 30, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–700 Filed 1–14–99; 8:45 am]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in February 1999.

EFFECTIVE DATE: February 1, 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during February 1999.

For annuity benefits, the interest assumptions will be 5.40 percent for the first 20 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions represent an increase (from those in effect for January 1999) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.00 percent for the period during which a benefit is in pay status and during any years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for January 1999.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during February 1999, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 64 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, . . . , and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
* * *	*	*	*		*	
February 1999	.0540	1–20	.0525	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*		*	*
64	02–1–99	03–1–99	4.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 11th day of January 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–937 Filed 1–14–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS HIGGINS (DDG 76) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, Washington Navy Yard, Washington, DC 20374–5066. Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS HIGGINS (DDG 76) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii) pertaining to the vertical placement of task lights; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS HIGGINS:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	* * *	* *
USS HIGGINS	DDG 76	1.92 meters.
* * *	* * *	* *

3. Table Four, paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS HIGGINS:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * *	* * *	* *
USS HIGGINS	DDG 76	102.00 thru 112.50°.
* * *	* * *	* *

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS HIGGINS:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions, annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship, annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light, annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS HIGGINS	DDG 76	X	X	X	14.0
*	*	*	*	*	*

Dated: September 1, 1998.

Approved:

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 99–919 Filed 1–14–99; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS DULUTH (LPD 6) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, Washington Navy Yard, Washington, DC 20374–5066. Telephone Number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS DULUTH (LPD 6) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special functions as a naval ship: Annex I, section 2 (a)(i), pertaining to the height of the forward masthead light and Annex I, section 3(a), pertaining to the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table One of § 706.2 is amended by adding, in numerical order, the following entry for the USS DULUTH:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), Annex I
*	*	*
USS DULUTH	LPD 6	4.4
*	*	*

3. Table Five of § 706.2 is amended by revising the entry for the USS DULUTH to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than 2 ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS DULUTH	LPD 6	N/A	N/A	X	56.8
*	*	*	*	*	*

Dated: September 1, 1998.

Approved:

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 99–918 Filed 1–14–99; 8:45 am]

BILLING CODE 3810–FF–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0121; FRL–6214–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on August 7, 1998. This final action will incorporate this rule into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rule controls VOC emissions from a variety of sources. Thus, EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because this revision, while maintaining the SIP, also does not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of this limited disapproval EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves a correction to the identified deficiency within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal Implementation Plan (FIP) unless the deficiency is corrected within 24 months of the effective date of this disapproval.

EFFECTIVE DATE: This action is effective on February 16, 1999.

ADDRESSES: Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are available for inspection at the following locations:

Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite #200, Fresno, CA 93721

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4661, Organic Solvents. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 10, 1998. Eighteen rules from the San Joaquin Valley Air Basin's eight counties are being replaced by SJVUAPCD Rule 4661 and are being rescinded from their respective SIPs with this action. A detailed list of the rules being rescinded from the county SIPs can be found in the Technical Support Document (TSD) for Rule 4661 (dated July 1, 1998), which is available from the U.S. EPA, Region IX office.

II. Background

On August 7, 1998 in 63 FR 42308, EPA proposed granting limited approval and limited disapproval of SJVUAPCD Rule 4661, Organic Solvents into the California SIP. Rule 4661 was adopted by SJVUAPCD on December 17, 1992. This rule was submitted by the CARB to EPA on March 10, 1998. This rule was submitted in response to EPA's 1988 SIP Call and the CAA section 110(a)(2)(A) requirement. A detailed discussion of the background for the above rule and nonattainment area is provided in the proposed rule cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the EPA policy guidance document referenced in the proposed rule. EPA is finalizing the limited approval of this rule in order to provide a uniform set of requirements for the entire San Joaquin Valley Air Basin, maintain the SIP, and alleviate problems associated with the listing of all applicable requirements in Title V source permits. EPA is also finalizing the limited disapproval of this rule and requiring the correction of the remaining deficiency. Section 4.2 of Rule 4661 states that Rule 4661 shall not apply to any source which is in full compliance with the provisions of other applicable rules in Regulation IV (Prohibitions). This exemption does not specify that it applies only in situations where sources are in compliance with other SIP-approved rules. Because of this deficiency, the rule is not fully approvable pursuant to section 110(a)(2)(A) of the CAA because it is not consistent with the interpretation of Section 172 of the 1977 CAA as found in the Blue Book and may lead to compliance problems. A detailed

discussion of the rule provisions and evaluation has been provided in the proposed rule and in the TSD available at EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 63 FR 42308. EPA received no comment letters on the proposed rule.

IV. EPA Action

EPA is finalizing a limited approval and a limited disapproval of the above-referenced rule. The limited approval of this rule is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by maintaining the SIP. The approval is limited in the sense that the rule maintains the SIP but contains a deficiency, as discussed in the proposed rule, that does not meet the section 110(a)(2)(A) CAA requirement. Thus, in order to maintain the SIP, EPA is granting limited approval of this rule under sections 110(k)(3) and 301(a) of the CAA. This action approves the rule into the SIP as a federally enforceable rule.

At the same time, EPA is finalizing the limited disapproval of this rule because it contains a deficiency that has not been corrected as required by section 110(a)(2)(A) of the CAA, and, as such, the rule does not fully meet the requirements of Part D of the Act. As stated in the proposed rule, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin. Sections 179(a) and 110(c). If the State does not submit the required correction and EPA does not approve the submittal within 18 months of the effective date of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rule covered by this final rule has been adopted by the SJVUAPCD and is currently in effect. EPA's limited disapproval action will not prevent SJVUAPCD or EPA from enforcing this rule.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to

State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 18, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (254)(i)(A)(*4*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(254) * * *

(i) * * *

(A) * * *

(*4*) Rule 4661, adopted on December 17, 1992.

* * * * *

[FR Doc. 99–892 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 095–0107; FRL–6213–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on August 3, 1998. This final action will incorporate this rule into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of sulfur dioxide (SO_2) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls SO_2 emissions by establishing a limit on the sulfur content of fuels. Thus, EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions. There will be no sanctions clock as the Ventura County Air Pollution Control District is in attainment for SO_2.

EFFECTIVE DATE: This action is effective on February 16, 1999.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW, Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003

FOR FURTHER INFORMATION CONTACT: Stanley Tong, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is: Ventura County Air Pollution Control District (VCAPCD), Rule 64, Sulfur Content of Fuels. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994.

II. Background

On August 3, 1998 in 63 FR 41220, EPA proposed granting limited approval and limited disapproval of the following rule into the California SIP: VCAPCD, Rule 64, Sulfur Content of Fuels. Rule 64 was adopted by VCAPCD on June 14, 1994. This rule was submitted by the CARB to EPA on July 13, 1994. A detailed discussion of the background for the above rule is provided in the proposed rule (PR) cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA and EPA regulations and EPA's

interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the PR. EPA is finalizing the limited approval of this rule in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiency involving recordkeeping and record retention. A detailed discussion of the rule provisions and evaluation has been provided in the PR and in the technical support document (TSD) available at EPA's Region IX office (TSD dated 7/1/98 for VCAPCD Rule 64).

III. Response to Public Comments

A 30-day public comment period was provided in 63 FR 41220 dated August 3, 1998. EPA received no comment letters on the NPR.

IV. EPA Action

EPA is finalizing a limited approval and a limited disapproval of the above-referenced rule. The limited approval of this rule is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rule strengthens the SIP. However, the rule does not meet the section 182(a)(2)(A) CAA requirement because of the rule deficiency which was discussed in the PR. Thus, in order to strengthen the SIP, EPA is granting limited approval of this rule under sections 110(k)(3) and 301(a) of the CAA. This action approves the rule into the SIP as federally enforceable rule.

At the same time, EPA is finalizing the limited disapproval of this rule because it contains a deficiency. As stated in the proposed rule, there is no sanctions clock as VCAPCD is in attainment for SO_2. It should be noted that the rule covered by this FR has been adopted by the VCAPCD and is currently in effect in the VCAPCD. EPA's limited disapproval action will not prevent VCAPCD or EPA from enforcing this rule.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the

aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 10, 1998.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (198)(i)(J)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(J) * * *

(*3*) Rule 64, amended June 14, 1994.

* * * * *

[FR Doc. 99–891 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL161–1a; FRL–6216–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving a requested source specific revision to the Illinois State Implementation Plan (SIP) for ozone in the form of a variance from the otherwise applicable SIP requirements for DB Hess Company, Incorporated's lithographic printing plant which is located in Woodstock, in McHenry County, Illinois. The variance took effect on the State level on March 20, 1997 and expires on March 30, 1999. The State's plan request was submitted to USEPA on September 3, 1997. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, this approval. If adverse written comments are received on this action, the USEPA will withdraw this final rule and address the comments received in response to this action in a final rule based on the related proposed rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes the State's rule federally enforceable.

DATES: This rule is effective on March 16, 1999, unless USEPA receives adverse written comments by February 16, 1999. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the plan and USEPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Description of the Affected Source

The DB Hess SIP revision request and USEPA's evaluation of it are summarized below. More detailed information is contained in a technical support document which was prepared in support of this action. It is available from the Region 5 office listed above.

DB Hess owns and operates a lithographic printing plant located in Woodstock (McHenry County), Illinois. The plant emits Volatile Organic Material [1] (VOM) and is located within the Chicago-Gary-Lake County ozone nonattainment area, which is classified as severe for the one-hour ozone National Ambient Air Quality Standard (NAAQS).

The production equipment at DB Hess's Woodstock plant (the Woodstock

[1] The USEPA generally uses the term ''Volatile Organic Compounds (VOC)'' to refer to the hydrocarbon compounds that participate in the chemical formation of ozone in the lower Troposphere. The State of Illinois uses the term ''Volatile Organic Material (VOM)'' to refer to the same hydrocarbon compounds. The definition of VOM is identical to the definition of VOC. The two terms can be used interchangeably.

plant) consists of (1) two heatset web offset lithographic printing presses, presses 1 and 2, with VOM emissions controlled by the use of a thermal oxidizer; (2) three heatset web offset presses, presses 3, 4, and 5, whose VOM emissions are uncontrolled; and (3) two coldset sheetfed presses. Each heatset web offset printing line includes a drying oven, fired with natural gas. The exhausts from the drying ovens for presses 3, 4, and 5 are vented through the roof of the Woodstock plant.

VOM emissions from the Woodstock plant result from the use of organic, solvent-born inks, fountain solution additives, and cleaning solutions. The Woodstock plant currently uses fountain solutions which are applied with a VOM concentration of less than 5 percent (by volume or by mass not specified) and which contain no alcohol. The cleaning solution used by DB Hess is diluted from a concentrate. Heatset inks are formulated from solids, ink oils, and solvents, some of which contain VOM.

In 1995, the Woodstock plant emitted approximately 9 tons of VOM, with 5 tons of VOM emissions resulting from the use of heatset ink oils and 4 tons of VOM emissions resulting from the use of cleaning solvents. The Woodstock plant currently operates under a Federally Enforceable State Operating Permit (FESOP) issued by the Illinois Environmental Protection Agency (IEPA) on December 11, 1995.

II. The Requested Rule Variance and Its Justification

DB Hess currently complies with Illinois' VOM rules for presses 1 and 2 and for the coldset sheetfed presses. DB Hess is requesting the variance only for presses 3, 4, and 5. The variance requested concerns Illinois's VOM rules for lithographic printing sources. Specifically, DB Hess is seeking a variance from the State regulations found at Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 218: Organic Material Emissions Standards and Limitations for the Chicago Area, Subpart H: Printing and Publishing of the Illinois Administrative Code (35 IAC) 218.407 (a) (1) (C), (D), and (E) and (35 IAC) 218.411 (b) (1), (2), and (3) which are parts of Illinois' lithographic printing rules. Section 218.407 (a) (1) (C), (D), and (E) require the instillation and operation of an afterburner at subject heatset web offset lithographic printing lines as well as continuous monitoring of its performance while in use. Section 218.411 (b) (1), (2),and (3) specify certification and recordkeeping and reporting requirements for heatset web offset lithographic printing lines subject to emission control requirements. The lithographic printing rules were tightened in 1995 to provide VOM emission reductions needed to meet the requirements for Rate-Of-Progress (ROP) in the Chicago-Northwest Indiana ozone nonattainment area.

The FESOP, under which the Woodstock plant currently operates, limits uncontrolled VOM emissions to less than 100 tons per year for all heatset lines. The new lithographic printing rule requirements apply if the source emits 100 pounds of VOM or more per day before control from all printing processes. Because the VOM emissions at the Woodstock plant exceed this emission limit, the Woodstock plant is subject to the requirements of the lithographic printing rule. DB Hess is complying with this rule for all presses except for presses 3, 4, and 5.

On March 15, 1996, the compliance date for the lithographic printing rule, DB Hess filed for a variance from the applicable control requirements for presses 3, 4, and 5 with the Illinois Pollution Control Board (IPCB). The variance was sought for the period of March 15, 1996 through March 30, 1999, during which DB Hess proposed to implement an alternative plan to reduce its emissions using a phased compliance approach. In lieu of purchasing and operating an afterburner for presses 3, 4, and 5, DB Hess proposed to replace these presses with compliant presses and to otherwise reduce VOM emissions from the presses. The alternative compliance plan would employ the use of cleaning solutions with lower VOM content. In addition, DB Hess committed to eliminate press 3 by March 30, 1998, and to eliminate or retrofit presses 4 and 5 to comply with the VOM requirements by March 30, 1999. DB Hess requested that the variance terminate when presses 3, 4, and 5 have ceased operation, have been replaced, or have been retrofitted with emission control equipment, and have been tested and shown to be in compliance with the applicable rules. Compliance with the rules would be demonstrated by March 30, 1999.

To comply with the lithographic printing rule prior to March 15, 1996, DB Hess considered various VOM control systems and determined that only thermal oxidation of VOM was a feasible control method. However, DB Hess asserted that the environmental benefit from controlling the emissions from presses 3, 4, and 5 was out weighed by the high cost of VOM reduction using thermal oxidation. The cost of VOM reduction via thermal oxidation was estimated by DB Hess to be in the range of $48,000 to $69,000 per ton of VOM controlled, with an expected VOM emission reduction of 3.5 tons per year. In addition, DB Hess noted that these presses are nearing the ends of their average production lives of 25 years. Requiring DB Hess to install an afterburner to control VOM emissions would require DB Hess to make a substantial, short-lived capital investment in excess of the expected value produced by these presses during the remainder of the presses' lifetimes. The VOM control costs for these presses would significantly exceed the upper costs of VOM controls, $1,800 to $3,100 per ton VOM controlled, believed by DB Hess to represent Reasonably Available Control Technology (RACT). The IPCB found in a March 20, 1997 Opinion and Order of the Board that to require immediate compliance with the lithographic printing rules for these presses would impose an arbitrary and unreasonable hardship on DB Hess.

DB Hess maintained that there will be no adverse environmental impacts from its proposed compliance plan. DB Hess believed that the VOM emission reduction to be gained from the implementation of an afterburner on presses 3, 4, and 5 would have a negligible impact on the ozone levels in this area. In addition, DB Hess agreed to limit its potential to emit VOM to a level required by the lithographic printing rule, 18 tons per year. (Note that actual VOM emissions at the Woodstock plant are currently well below this level.) Therefore, DB Hess believes its alternative control plan would provide a net benefit for the environment.

Given DB Hess' commitment to limit the Woodstock plant potential VOM emissions to 18 tons per year, the IEPA concluded that the requested variance and alternative compliance plan will not adversely impact the environment relative to the full impact that would have been achieved by complete implementation of the lithographic printing rules. The IEPA, however, disagreed with DB Hess' conclusions concerning the implications of the local ozone monitoring data. The IEPA recognized the potential for the DB Hess VOM emissions to contribute to high ozone concentrations elsewhere in the Chicago ozone nonattainment area. The IEPA also indicated that DB Hess' commitment to reduce potential VOM emissions to 18 tons per year confused the terms ''actual emissions'' and ''potential to emit.'' Reducing ''potential'' emissions does not always

equate to a real environmental benefit, especially when, in fact, DB Hess does not actually emit near its potential to emit.

The IEPA stated that denying the variance request would result in an arbitrary or unreasonable hardship to DB Hess which would be required to make a substantial, short lived capital investment if required to install an afterburner on presses that are expected to be shut down within three years because such an expenditure would be in excess of the value of each press and the expected value produced by those presses during their estimated useful life remaining. The IEPA concluded that DB Hess qualified for a SIP revision and has met applicable requirements for a SIP revision. The requirements of notice and opportunity for public participation have been met through a public hearing held in this matter on January 23, 1997.

Balancing the economic costs of the required VOM controls for presses 3, 4, and 5 against the anticipated environmental impact of complete rule implementation, the IPCB found that to require immediate compliance with the rules for lithographic printing would impose an arbitrary or unreasonable hardship on DB Hess. Therefore, the IPCB issued a temporary variance for presses 3, 4, and 5 at the Woodstock plant. This variance commenced on March 20, 1997, and was not made retroactive to March 15, 1996 as requested by DB Hess. The variance terminates on March 30, 1999. The following summarizes additional conditions placed on the variance (the dates specified indicate the latest start dates of compliance periods terminating on March 30, 1999, when presses 3, 4, and 5 must be replaced by complying presses or must be brought into compliance with the rules from which DB Hess seeks the variance):

1. On or before March 20, 1997, the combined actual VOM emissions from all of the presses in the Woodstock plant shall not exceed 18 tons per year or 1.5 tons per month.

2. On or before March 20, 1997, DB Hess shall use only cleaning solutions with VOM concentrations less than or equal to 30 percent by weight.

3. On or before March 20, 1997, DB Hess shall use cleaning solutions on presses 3, 4, and 5 that have a VOM composite partial vapor pressure of less than 10 millimeters (mm) of Mercury (Hg) at 20 degrees Celsius. These cleaning solutions must comply with the requirements of 35 IAC 218.407(a)(4).

4. On or before March 20, 1997, DB Hess shall store and dispose of all cleaning towels in closed containers.

5. On or before May 5, 1997, DB Hess shall monitor presses 3, 4, and 5 pursuant to 35 IAC 218.410 (b), (c), and (e).

6. On or before May 5, 1997, DB Hess shall use fountain solutions on presses 3, 4, and 5 that are less than 5 percent VOM by volume, as applied, and which contain no alcohol.

7. On or before May 5, 1997, DB Hess shall prepare and maintain records pursuant to 35 IAC 218.411 (b), (c), and (d) for presses 3, 4, and 5 and must show compliance with the requirements of 35 IAC 218.407(a)(1) (C), (D), and (E) and with the requirements of 35 IAC 218.411(b) (1), (2), and (3) for these presses.

8. On or before May 5, 1997, DB Hess shall submit quarterly reports to the IEPA's Compliance and Systems Management Section demonstrating compliance with the terms of the IPCB order.

9. On or before March 30, 1998, DB Hess shall cease operation of press 3.

10. On or before March 30, 1999, DB Hess shall either:

A. Cease operation of presses 4 and 5, and notify the IEPA of such cessation; or

B. Retrofit presses 4 and 5 or replace presses 4 and 5 in compliance with 35 IAC 218.407 (a)(1) (C), (D), and (E) and with 35 IAC 218.411(b) (1), (2), and (3). In this case:

(1) DB Hess must apply for and obtain necessary construction permits by March 30, 1998, or six months before retrofitting or replacing presses 4 and 5, whichever is earlier.

(2) DB Hess must send monthly status reports, due the 15th day of each month, to the IEPA, covering the progress of the installation of the presses and control equipment and testing of the control equipment.

11. On or before March 30, 1999, DB Hess shall cease operations at presses 3, 4, and 5 except for those presses for which it has obtained permits and installed controls, which have been tested and demonstrated to be in compliance with applicable rules.

III. USEPA Review of the Variance Request

USEPA guidance covering various types of variance requests is comprised of separate rulemakings on a number of widely ranging variance requests. Generally, each variance request must be reviewed on a case-by-case basis. This particular control variance is reviewed on the merits of DB Hess's claim of unreasonable costs for implementation of required controls and on the merits of the IPCB's final decision and requirements. Of greatest concern is the enforceability and specific temporary nature of the IPCB-granted variance.

Review of the cost data supplied by DB Hess leads to the conclusion that DB Hess's claim of unreasonable emission control costs may be justified. Assuming that presses 3, 4, and 5 are to be replaced in the short term due to their ages and the fact that presses have finite useful lifetimes and recognizing that afterburner (thermal oxidation) control systems are relatively expensive, requiring long term uses to provide reasonable emission control costs, leads to the conclusion that DB Hess can justify relatively high emission control costs, well above levels that might be expected should the afterburner systems be used over much longer time periods. DB Hess is justified in seeking a temporary variance if it plans to terminate or replace the presses in a short time frame (within 3 years as planned).

The SIP variance requested places a definite ending point on the variance. DB Hess is required to replace or terminate the use of the three presses by March 30, 1999, or to bring the presses into compliance with applicable regulations by that time. Failure to do so would leave DB Hess subject to rule violation consequences if DB Hess fails to comply by that time. The SIP revision also provides for adequate tracking of DB Hess' progress of compliance. The variance is enforceable on its face, since the State and USEPA can take actions to enforce the applicable regulations after March 30, 1999. Approval of the variance does protect DB Hess from enforcement between March 20, 1997, the date of the variance approval by the IPCB, and March 30, 1999. The variance is technically justified and enforceable.

USEPA approves the incorporation of this variance into the Illinois SIP for the life of the variance.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective without further notice unless USEPA receives relevant adverse written comment by February 16, 1999. Should USEPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this

action will be effective on March 16, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, USEPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, USEPA must provide to the Office of Management and Budget a description of the extent of USEPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires USEPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, USEPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, USEPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of USEPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires USEPA to develop an effective process permitting elected officials and other representatives of tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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. USEPA 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 3, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(144) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(144) On September 3, 1997, the Illinois Environmental Protection Agency submitted a temporary, site specific State Implementation Plan revision request for the D.B. Hess Company, Incorporated's (DB Hess) lithographic printing operations located in Woodstock (McHenry County), Illinois. This variance took the form of a March 20, 1997, Opinion and Order of the Illinois Pollution Control Board issued in PCB 96–194 (Variance—Air). The variance which will expire on March 30, 1999, grants DB Hess a variance from 35 Illinois Administrative Code Sections 218.407(a)(1)(C),(D),(E) and 218.411(b)(1), (2)and (3) for heatset web offset presses 3, 4, and 5 which are located at the Woodstock (McHenry County), Illinois facility.

(i) *Incorporation by reference.*

A March 20, 1997, Opinion and Order of the Illinois Pollution Control Board in PCB 96–194 (Variance—Air) which was effective on March 20, 1997 and expires on March 30, 1999.

(ii) The variance is subject to the following conditions (the dates specified indicate the latest start dates of compliance periods terminating on March 30, 1999, when presses 3, 4, and 5 must be replaced by complying presses or must be brought into compliance with the rules from which DB Hess seeks the variance):

(A) On or before March 20, 1997, the combined actual volatile organic material (VOM) emissions from all of the presses in the Woodstock plant shall not exceed 18 tons per year or 1.5 tons per month.

(B) On or before March 20, 1997, DB Hess shall use only cleaning solutions with VOM concentrations less than or equal to 30 percent by weight.

(C) On or before March 20, 1997, DB Hess shall use cleaning solutions on presses 3, 4, and 5 that have a VOM composite partial vapor pressure of less than 10 millimeters (mm) of Mercury (Hg) at 20 degrees Celsius. These cleaning solutions must comply with the requirements of 35 IAC 218.407(a)(4).

(D) On or before March 20, 1997, DB Hess shall store and dispose of all cleaning towels in closed containers.

(E) On or before May 5, 1997, DB Hess shall monitor presses 3, 4, and 5 pursuant to 35 IAC 218.410 (b), (c), and (e).

(F) On or before May 5, 1997, DB Hess shall use fountain solutions on presses 3, 4, and 5 that are less than 5 percent VOM by volume, as applied, and which contain no alcohol.

(G) On or before May 5, 1997, DB Hess shall prepare and maintain records pursuant to 35 IAC 218.411 (b), (c), and (d) for presses 3, 4, and 5 and must show compliance with the requirements of 35 IAC 218.407(a)(1) (C), (D), and (E) and with the requirements of 35 IAC 218.411(b) (1), (2), and (3) for these presses.

(H) On or before May 5, 1997, DB Hess shall submit quarterly reports to the Illinois Environmental Protection Agency's (IEPA's) Compliance and Systems Management Section demonstrating compliance with the terms of the Illinois Pollution Control Board Order.

(I) On or before March 30, 1998, DB Hess shall cease operation of press 3.

(J) On or before March 30, 1999, DB Hess shall either:

(*1*) Cease operation of presses 4 and 5, and notify the IEPA of such cessation; or

(*2*) Retrofit presses 4 and 5 or replace presses 4 and 5 in compliance with 35 IAC 218.407 (a)(1) (C), (D), and (E) and with 35 IAC 218.411(b) (1), (2), and(3). In this case:

(*i*) DB Hess must apply for and obtain necessary construction permits by March 30, 1998, or six months before retrofitting or replacing presses 4 and 5, whichever is earlier.

(*ii*) DB Hess must send monthly status reports, due the 15th day of each month, to the IEPA, covering the progress of the installation of the presses and control equipment and testing of the control equipment.

(K) On or before March 30, 1999, DB Hess shall cease operations at presses 3, 4, and 5 except for those presses for which it has obtained permits and installed controls, which have been tested and demonstrated to be in compliance with applicable rules.

[FR Doc. 99–1022 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL176–1a; FRL–6215–3]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 16, 1998, the State of Illinois submitted to EPA amendments to Volatile Organic Material (VOM) rules affecting Illinois' ozone attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas), as a requested revision to the ozone State Implementation Plan (SIP). VOM, as defined by the State of Illinois, is identical to ''Volatile Organic Compounds'' (VOC), as defined by EPA. The amendments contain various deletions of obsolete provisions, changes of some word usage to comport with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements. This rulemaking action approves, using the direct final process, the Illinois SIP revision request.

DATES: This rule is effective on March 16, 1999, unless EPA receives adverse written comments by February 16, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief,

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the revision request for this rulemaking action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Illinois' SIP for ozone contains several regulations under 35 Illinois Administrative Code (Ill.Adm.Code) 215, which require VOM controls for stationary sources located in Illinois' attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas).[1] Part 215 originally contained VOM control rules applicable to sources within the entire State. However, as Clean Air Act (Act) requirements for VOM control became more stringent for ozone nonattainment areas, Illinois established Parts 218 and 219 to contain VOM regulations for the Chicago and Metro-East nonattainment areas, respectively. Part 215 remained by default to cover sources outside the nonattainment areas.

On October 28, 1997, the Illinois Environmental Protection Agency (IEPA) filed proposed ''clean-up'' amendments to Part 215 with the Illinois Pollution Control Board (Board). The amendments contain various deletions of obsolete provisions, changes of some word usage to comport Part 215 with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements. Public hearings were held on December 18, 1997, in Chicago, Illinois and on December 22, 1997, in Springfield, Illinois. An Economic Impact hearing was held on March 30, 1998, in Springfield, Illinois.

On June 4, 1998, the Board adopted a Final Opinion and Order for the Part 215 clean-up amendments. On July 6, 1998, the amended rules were published in the *Illinois Register.* The specific sections of Part 215 which have been amended are as follows:

Subpart A: General Provisions

215.104 Definitions
215.109 Monitoring for Negligibly-Reactive Compounds

Subpart F: Coating Operations

215.204 Emission Limitations for Manufacturing Plants
215.205 Alternative Emission Limitations
215.206 Exemptions from Emission Limitations
215.207 Compliance by Aggregation of Emissions Units
215.211 Compliance Dates and Geographical Areas
215.212 Compliance Plan
215.214 Roadmaster Emissions Limitations (Repealed)

Subpart Z: Dry Cleaners

215.601 Perchloroethylene Dry Cleaners (Repealed)
215.602 Exemptions (Repealed)
215.603 Leaks (Repealed)
215.604 Compliance Dates and Geographical areas (Repealed)
215.605 Compliance Plan (Repealed)
215.606 Exception to Compliance Plan (Repealed)

The amendments to the Part 215 rules are summarized as follows.

Definitions

Several definitions contained under Part 215 are identical to definitions contained in Part 211. Illinois has deleted these identical definitions from Part 215. Section 215.104 indicates that the definitions under Part 211 shall apply to Part 215. In addition, the definition of ''Reid Vapor Pressure'' under 215.104 is amended to include the correct abbreviation of pounds per square inch absolute.

Replacement of ''Source'' by ''Emission Unit''

''Emission unit'' has become the standard term of art used throughout federal and State VOM regulations. Therefore, references under Part 215 to ''source'' or ''emission source'' have been replaced by ''emission unit'' to reflect current usage.

2,500 gallon/year Coating Exemption

Part 215 provides for VOM content limitations for coating operations. Previous to these amendments, section 215.206 had allowed coating plants an exemption from coating emission limitations if a coating plant's emission of VOM is limited by operating permit to not exceed 22.7 megagrams/year (25 tons/year), in the absence of air pollution control equipment. The amendments expand the exemption to coating plants in which the total coating usage does not exceed 9,463 liters/year (2,500 gallons/year).

IEPA knows of one source which would be affected by this exemption, Sundstrand Aerospace Division of Sundstrand Corporation (Sundstrand), in Rockford, Illinois. Sundstrand has two coating plants in which the majority of the VOM emissions come from degreasing rather than coating operations. Since the definition of ''Coating Plant'' at section 211.1250 includes the entire building in which the coating occurs, VOM emissions from all emission units housed in the same building as a coating unit would be included in determining whether the 25 tons/year exemption would apply to that coating unit. According to IEPA, the two Sundstrand plants have been meeting the 25 tons/year exemption, but cannot increase production without losing the exemption. Since degreasing operations are already subject to VOM emission control under Part 215, IEPA does not believe that a 2,500 gallon/year coating exemption for each coating plant would negatively impact air quality. Illinois knows of no other source besides Sundstrand which would be impacted by this new exemption.

Touch-up and Repair Coating Exemption

An exemption from VOM coating limitations has been added to section 215.206 for touch-up and repair coatings. The exemption provides that touch-up and repair coatings are exempt from emission limitations provided that the source-wide volume of such coatings does not exceed 0.95 liters (1 quart) per eight-hour period, or exceed 209 liters/year for any rolling twelve-month period. ''Touch-up and repair coating'' is defined as any coating used to cover minor scratches and nicks that occur during manufacturing or assembly processes. The exemption provision requires certain recordkeeping and reporting requirements to ensure that the exemption is properly used. This exemption is based on the touch-up and repair coating exemption which has been added to Parts 218 and 219 under section 218/219.208, and approved as revisions to the SIP on February 13, 1996 (see 61 FR 5511).

Roadmaster Site-Specific Rule Repealed

Section 215.214 contains a site-specific coating rule applicable to the Roadmaster Corporation's facility located in Olney, Illinois. Roadmaster has indicated to IEPA that it has shut down the coaters to which the site-

[1] The Chicago ozone nonattainment area includes Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County. The Metro-East nonattainment area includes Madison, Monroe, and St. Clair Counties. See 40 CFR 81.314.

specific rule applies, and that it wishes to have the site-specific rule withdrawn. The rule has therefore been repealed through these amendments.

Perchloroethylene Dry Cleaner Rule Repealed

The amendments delete all regulatory requirements pertaining to perchloroethylene dry cleaners found in part 215. Perchloroethylene was delisted as a VOM by the EPA on February 7, 1996 (see 61 FR 4588). On February 7, 1997, the Board adopted a final rulemaking delisting perchloroethylene as VOM under State regulations. The State has deleted the perchloroethylene dry cleaner requirements from Part 215 because the rules are no longer necessary given that perchloroethylene negligibly contributes to ozone formation, and that perchloroethylene dry cleaners are now regulated under National Emission Standards for Hazardous Air Pollutant (NESHAP) regulations promulgated September 22, 1993 (58 FR 49354).

II. EPA Review of SIP Revision

Section 110(l) of the Clean Air Act (Act) allows EPA to approve revisions to the SIP as long as the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress and any other applicable requirement under the Act. Since the part 215 rules affect only the ozone attainment area, Reasonably Available Control Technology (RACT) or Rate-Of-Progress (ROP) requirements for VOM rules pursuant to section 182 of the Act do not apply. Rather, with this SIP revision, EPA needs to determine whether these rule amendments will interfere with maintenance of the ozone National Ambient Air Quality Standard (NAAQS) in the Illinois attainment area.

The part 215 revision relaxes the SIP in three areas: the 2,500 gallon coating exemption for coating plants; the touch-up and repair coating exemption; and the deletion of perchloroethylene dry cleaning rules.

The 2,500 gallon coating exemption is expected to affect only two coating plants in the Illinois attainment area, both controlled by Sundstrand Corporation. The IEPA has determined that the exemptions should not impact air quality due to the fact that no other sources are known to be affected besides Sundstrand, that the majority of Sundstrand's coating plant emissions are controlled under degreasing rules, and the general applicability threshold for permitting coating plants in the Illinois attainment area is 5,000 gallons. The EPA agrees that the 2,500 gallon coating exemption will not impact maintenance of the ozone NAAQS in the Illinois attainment area.

As for the touch-up coating and repair exemption, EPA has already approved a 0.95 liter (1 quart) per eight-hour/209 liter (55 gallons) per year exemption for touch up and repair coatings for the Illinois nonattainment areas, and such exemption is acceptable under EPA policy. The exemption has sufficient recordkeeping and reporting requirements to ensure enforceability. EPA finds that such exemption will not impact maintenance of the ozone NAAQS in the Illinois attainment area.

Finally, since EPA has found perchloroethylene emissions negligibly contribute to ozone formation, perchloroethylene dry cleaning rules are no longer necessary to maintain the ozone standard in the Illinois attainment area. As was noted in EPA's February 7, 1996, rulemaking which delisted perchloroethylene as a VOC, EPA believes that the control of perchloroethylene under NESHAP rules is the proper approach to controlling these emissions.

In summary, the exemptions as well as other changes made to the part 215 amendments are approvable under section 110(l) of the Act.

III. Final Rulemaking Action

In this rulemaking action, EPA approves the September 16, 1998, Illinois SIP revision submittal, which will make Part 215 VOM attainment area rule amendments federally enforceable. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified adverse written comments be filed.

This action will be effective without further notice unless EPA receives relevant adverse written comment by February 16, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 16, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 21, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(145) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(145) On September 16, 1998, the State of Illinois submitted amendments to Volatile Organic Material (VOM) rules affecting Illinois' ozone attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas). The amendments contain various deletions of obsolete provisions, changes of some word usage to comport Part 215 with other Illinois VOM regulations, and the addition of certain exemptions from VOM coating requirements.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 215: Organic Material Emission Standards and Limitations; Subpart A: General Provisions, 215.104 Definitions, 215.109 Monitoring for Negligibly-Reactive Compounds; Subpart F: Coating Operations, 215.204 Emission Limitations for Manufacturing Plants, 215.205 Alternative Emission Limitations, 215.206 Exemptions from Emission Limitations, 215.207 Compliance by Aggregation of Emissions Units, 215.211 Compliance Dates and Geographical Areas, 215.212 Compliance Plan, and 215.214 Roadmaster Emissions Limitations (Repealed); Subpart Z: Dry Cleaners, 215.601 Perchloroethylene Dry Cleaners

(Repealed), 215.602 Exemptions (Repealed), 215.603 Leaks (Repealed), 215.604 Compliance Dates and Geographical areas (Repealed), 215.605 Compliance Plan (Repealed), and 215.606 Exception to Compliance Plan (Repealed), amended at 22 Ill. Reg. 11427, effective June 19, 1998.

[FR Doc. 99–1018 Filed 1–14–99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[IB Docket No. 97–95; FCC 98–336]

Allocation and Designation of Spectrum for Fixed-Satellite and Wireless Services in the 36.0–51.4 GHz Frequency Band, and Allocation of Spectrum in the 37.0–38.0 GHz and 40.0–40.5 GHz Band for Government Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order (''Order'') the Commission adopts a plan for non-Government operations in the 36.0–51.4 GHz band by providing separate primary designations for non-Government wireless and fixed-satellite services throughout the band. The Commission's goal is to provide an overall framework for commercial development of this band and to help such development to occur without the technical constraints that result from ubiquitous wireless and satellite services sharing the same spectrum on a co-primary basis. The rules adopted in this Order revise the U.S. Table of Frequency Allocations to accommodate the band plan and to address certain Federal Government operations in the band.

EFFECTIVE DATE: February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Breig, Planning and Negotiation Division, International Bureau, (202) 418–2156 or via electronic mail: cbreig@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, (FCC 98–336), adopted December 17, 1998, and released December 23, 1998. The complete text of this Commission decision is available for inspection and copying during the weekday hours of 9 a.m. and 4:30 p.m. in the Commission's Reference Center, Room 239, 1919 M Street, N.W., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2131 M Street, N.W., Washington, DC 20036, phone (202) 857–3800. The complete text is also available under the file name fcc98336.txt or fcc98336.wp on the Commission's internet site at http://www.fcc.gov/Bureaus/International/Orders/1998.

Summary of the Report and Order

1. In the band plan the Commission: (1) designates a total of 4 gigahertz of spectrum for fixed-satellite services (''FSS'') use on a primary basis in the 37.6–38.6 GHz, 40.0–41.0 GHz and 48.2–50.2 GHz bands; (2) provides a total of 5.6 gigahertz of spectrum for wireless services use on a primary basis, by retaining the existing wireless designations in the 38.6–40.0 GHz and 47.2–48.2 GHz bands, and adding new wireless designations on a primary basis in the 37.0–37.6 GHz, 41.0–42.5 GHz, 46.9–47.0 GHz and 50.4–51.4 GHz bands; and (3) retains the existing designations for unlicensed commercial vehicular radar in the 46.7–46.9 GHz band and for amateur services in the 47.0–47.2 GHz band. The 36.0–37.0 GHz, 42.5–46.7 GHz, and 50.2–50.4 GHz bands remain undesignated.

2. This band plan is the same as that proposed in the Notice of Proposed Rulemaking (''NPRM'') in this proceeding, 62 FR 16129 (April 4, 1997), with three exceptions. First, while the NPRM proposed to designate the 37.5–37.6 GHz (100 megahertz) and 41.0–41.5 GHz (500 megahertz) bands for FSS, and the 38.5–38.6 GHz (100 megahertz) and 40.0–40.5 GHz (500 megahertz) bands for wireless services, in this Order the Commission reverses these service designations and instead designates the 37.5–37.6 GHz and 41.0–41.5 GHz bands for wireless services, and the 38.5–38.6 GHz and 40.0–40.5 GHz bands for FSS. Second, while the NPRM proposed to provide separate designations for Geostationary Orbit fixed-satellite service (''GSO/FSS'') and Non-Geostationary Orbit fixed-satellite service (''NGSO/FSS'') operations, in this Order the Commission does not make such additional designations at this time, because it is not known the extent to which GSO and NGSO operations will occupy the bands designated for FSS. Third, while the NPRM proposed to allow ''underlay'' licenses, *i.e.*, the licensing of a second service in the bands designated for FSS, in this Order the Commission finds that underlay licenses could make it more difficult to administer the various services and could increase the potential for interference between satellite and wireless services. Accordingly, underlay licensing is not adopted in this proceeding.

3. Further, the Order revises the non-Government column of the U.S. Table of Frequency Allocations to accommodate the band plan by adding primary allocations for FSS in the 37.6–38.6 GHz and 40.5–41.0 GHz bands to accommodate the new FSS designations in these bands. In addition, the Commission upgrades the fixed and mobile allocations in the 41.0–42.5 GHz band from secondary to primary status to accommodate the new wireless services designation in this band. The Commission also adds a primary allocation for fixed service to the existing mobile service allocation in the 46.9–47.0 GHz band, again to accommodate a new wireless services designation.

4. Finally, the Commission revises the U.S. Table of Allocations to address Government operations in the 36.0–51.4 GHz band. Specifically, at the request of the National Telecommunications and Information Administration (''NTIA''), the Order adds the following allocations to the Government column of the U.S. Table: (1) space research (space-to-Earth) on a primary basis in the 37.0–38.0 GHz band; (2) space research (Earth-to-space) and Earth exploration-satellite (''EES'') (Earth-to-space), both on a primary basis, in the 40.0–40.5 GHz band; and (3) EES (space-to-Earth) on a secondary basis in the 40.0–40.5 GHz band. These allocations will allow certain additional Government operations in the band. In addition, the Commission also reallocates the 42.5–43.5 GHz band for exclusive Government use, except for radio astronomy, and the 47.2–48.2 GHz band for exclusive non-Government use to better meet the needs of Government and commercial operators in this band.

5. In the NPRM the Commission proposed a band plan that would establish an overall framework for operations in the 36.0–51.4 GHz band. The Commission considered such a framework necessary because of the various competing proposals involving frequencies in this band, the two ongoing rulemaking proceedings, and the difficulties inherent in sharing between ubiquitous wireless and satellite services. The Commission stated that a band plan would clarify the relationship among the various ongoing proceedings, ensure that all proposed uses were given due consideration, and help to foster better business planning and expeditious development of this spectrum. In the NPRM, the Commission proposed to designate 4 gigahertz of spectrum for FSS on a primary basis and 5.6 gigahertz for wireless services on a primary basis out of a total of 15.4 gigahertz of spectrum

in the band. The Commission also proposed to revise the U.S. Table of Frequency Allocations, as necessary, to accommodate the proposed designations. In response to a request by NTIA, the Commission also proposed to adopt new Government allocations in the 37.0–38.0 GHz and 40.0–40.5 GHz bands.

6. In developing the proposed band plan, the Commission considered the requirements of existing licensees as well as the requirements for both wireless and satellite services as stated in pending applications and proposals. Furthermore, noting that much of the band is allocated on a co-primary basis for both Government and non-Government use, the Commission requested comment on the practicality of sharing with Government users. The Commission also stated that service and licensing rules for specific bands and specific designations for wireless services would be the subject of separate ongoing or future rulemaking proceedings. The Commission subsequently opened a satellite filing window from July 22, 1997 through September 26, 1997 for the 36.0–51.4 GHz band, during which 15 satellite applications were filed.

7. On September 24, 1998, NTIA filed a letter proposing that the 42.5–43.5 GHz band be reallocated for exclusive Government use and the 47.2–48.2 GHz band be reallocated for exclusive non-Government use. NTIA stated that these reallocations would address Government spectrum requirements in the 40 GHz band, while assuring commercial bidders that the 47 GHz band would remain usable for commercial operations. The request was placed on Public Notice and 4 comments were filed. This proposal was adopted by the Order.

Final Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act (''RFA''),[1] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the Notice of Proposed Rule Making (''NPRM'') in IB Docket No. 97–95.[2] The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.[3]

A. Need for and Objective of the Rules

9. In this Report and Order the Commission provides a broad plan for use of the 36.0–51.4 GHz band that we intend to follow in developing domestic services using this spectrum in order to foster better business planning and expeditious commercial development of this spectrum. We allocate spectrum for fixed-satellite uses, and wireless services in a manner that minimizes disruption to existing services.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

10. No comments were submitted in direct response to the IRFA.

C. Description and Estimates of the Number of Small Entities to Which the Rules Will Apply

11. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[4] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

12. The Commission has not developed a definition of small entities specifically applicable to FSS licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (''SBA'') rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is one with no more than $11.0 million in annual receipts.[6] According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[7] We note that new services will be permitted under the adopted designations for FSS, and we are unable at this time to provide a more precise estimate of how many potential small entities will be providing these services.

13. As described, the designations we hereby adopt will also permit wireless services to use this spectrum. The Commission has not developed a definition of small entities applicable to wireless services licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[8] According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[9] We note that new services will be permitted under the adopted designations for wireless services, and we are unable at this time to provide a more precise estimate of how many potential small entities will be providing these services, or which wireless services will be utilized.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

14. The Commission has adopted rules in this Order that involve no reporting requirements at this time. Final service and licensing rules will be proposed at a later date.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The NPRM solicited comment on other alternatives such as other mechanisms of Government/non-Government sharing in those bands proposed primarily for FSS uses. The NPRM also requested comment on whether a sufficient amount of spectrum had been designated for wireless and satellite services or whether a different split would be better.

16. This Order should positively impact both large and small businesses by providing additional spectrum in which to provide services. Our decisions do not displace incumbent operators. We will be able to address small business concerns regarding specific sub-bands as we proceed to

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] *See* 12 FCC Rcd 10130, 10149 (1997).

[3] *See* 5 U.S.C. 604.

[4] *Id.* 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, 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(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[6] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[7] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

[8] 13 CFR 121.201, SIC code 4812.

[9] 1992 Census, Series UC92–S–1, at Table 5, SIC code 4812.

establish licensing and service rules for those bands in other proceedings.

Report to Congress

17. The Commission will send a copy of the Report and Order including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

Ordering Clauses

18. Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304, and 307, a Report and Order, as described in the complete text of FCC 98–336, is adopted and Parts 2 and 25 of the Commission's Rules are amended as specified.

19. It is further ordered that the rule amendments shall be effective 30 days after publication in the **Federal Register**.

20. Pursuant to the Regulatory Flexibility Act, see 5 U.S.C. 604, a Final Regulatory Flexibility Analysis (''FRFA'') has been performed regarding the rules adopted in this Report and Order. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 2

Satellite communications, Mobile, Fixed, Fixed-Satellite.

47 CFR Part 25

Satellite communications, Frequency bands.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 2 and 25 of title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307 and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by removing entries beginning with 36.0–37.0 GHz through 50.4–51.4 GHz and adding new entries beginning with 36.0–37.0 GHz through 50.4–51.4 GHz to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
36.0–37.0 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) S5.149	36.0–37.0 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) S5.149	36.0–37.0 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) S5.149	36.0–37.0 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342	36.0–37.0 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263 US342		
37.0–37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37.0–37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37.0–37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37.0–37.5 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37.0–37.5 FIXED MOBILE		
37.5–37.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	37.5–37.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	37.5–37.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	37.5–37.6 FIXED MOBILE SPACE RESEARCH (space-to-Earth)	37.5–37.6 FIXED MOBILE		
37.6–38.0	37.6–38.0	37.6–38.0	37.6–38.0	37.6–38.0		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	FIXED FIXED-SATELLITE (space-to-Earth) MOBILE SPACE RESEARCH (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	FIXED MOBILE SPACE RESEARCH (space-to-Earth)	FIXED MOBILE FIXED-SATELLITE (space-to-Earth)	SATELLITE COMMUNICATIONS (25)	
38.0–38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.0–38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.0–38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.0–38.6 FIXED MOBILE	38.0–38.6 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE	SATELLITE COMMUNICATION (25)	
38.6–39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.6–39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.6–39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Earth Exploration-Satellite (space-to-Earth)	38.6–39.5 US291	38.6–39.5 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE US291	FIXED MICROWAVE SERVICES (101) Auxiliary Broadcasting (74)	
39.5–40.0 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	39.5–40.0 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	39.5–40.0 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) Earth Exploration-Satellite (space-to-Earth)	39.5–40.0 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US291 G117	39.5–40.0 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US291	FIXED MICROWAVE SERVICES (101) Auxiliary Broadcasting (74)	
40.0–40.5 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	40.0–40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	40.0–40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)	40.0–40.5 EARTH EXPLORATION-SATELLITE (Earth-to-space) FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) SPACE RESEARCH (Earth-to-space)	40.0–40.5 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth)	SATELLITE COMMUNICATIONS (25)	

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
SPACE RESEARCH (Earth-to-space) Earth Exploration-Satellite (space-to-Earth)	SPACE RESEARCH (Earth-to-space) Earth Exploration-Satellite (space-to-Earth)	SPACE RESEARCH (Earth-to-space) Earth Exploration-Satellite (space-to-Earth)	Earth Exploration-Satellite (space-to-Earth) G117			
40.5–41.0 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	40.5–41.0 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	40.5–41.0 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	40.5–41.0 US211	40.5–41.0 BROADCASTING-SATELLITE BROADCASTING FIXED-SATELLITE (space-to-Earth) Fixed US211	SATELLITE COMMUNICATIONS (25)	
41.0–42.5 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	41.0–42.5 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	41.0–42.5 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile	41.0–42.5 US211	41.0–42.5 BROADCASTING-SATELLITE BROADCASTING Fixed Mobile US211		
42.5–43.5 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY S5.149	42.5–43.5 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY S5.149	42.5–43.5 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE except aeronautical mobile RADIO ASTRONOMY S5.149	42.5–43.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile RADIO ASTRONOMY US342	42.5–43.5 RADIO ASTRONOMY		
43.5–45.5 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	43.5–45.5 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	43.5–45.5 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	43.5–45.5 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) G117	43.5–45.5		
45.5–46.9 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	45.5–46.9 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	45.5–46.9 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	45.5–46.9 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE S5.554	45.5–46.9 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE S5.554	RADIO FREQUENCY DEVICES (15)	

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
46.9–47.0 FIXED MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	46.9–47.0 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	46.9–47.0 MOBILE S5.553 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE S5.554	46.9–47.0 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE S5.554	46.9–47.0 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE S5.554		
47.0–47.2 AMATEUR AMATEUR-SATELLITE	47.0–47.2 AMATEUR AMATEUR-SATELLITE	47.0–47.2 AMATEUR AMATEUR-SATELLITE	47.0–47.2 AMATEUR-SATELLITE	47.0–47.2 AMATEUR	AMATEUR (97)	
47.2–48.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	47.2–48.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	47.2–48.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	47.2–48.2	47.2–48.2 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE S5.555 US264 US297 US342		
48.2–50.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	48.2–50.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	48.2–50.2 FIXED FIXED-SATELLITE (Earth-to-space) S5.552 MOBILE S5.149 S5.340 S5.555	48.2–50.2 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE S5.555 US264 US297 US342	48.2–50.2 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE S5.555 US264 US297 US342	SATELLITE COMMUNICATIONS (25)	
50.2–50.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)	50.2–50.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)	50.2–50.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)	50.2–50.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263	50.2–50.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263		
50.4–51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-Satellite (Earth-to-space)	50.4–51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-Satellite (Earth-to-space)	50.4–51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-Satellite (Earth-to-space)	50.4–51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-Satellite (Earth-to-space) G117	50.4–51.4 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Mobile-Satellite (Earth-to-space)		
*	*	*	*	*	*	*

3. In the International Footnotes under heading I. New ''S'' Numbering Scheme, add footnotes S5.340, S5.552, S5.553, S5.554, and S5.555 in numerical order to read as follows:

International Footnotes

* * * * *

I. New ''S'' Numbering Scheme

* * * * *

S5.340 All emissions are prohibited in the following bands:

1400–1427 MHz,
2690–2700 MHz except those provided for by Nos. S5.421 and S5.422,
10.68–10.7 GHz except those provided for by No. S5.483,
15.35–15.4 GHz except those provided for by No. S5.511,
23.6–24 GHz,
31.3–31.5 GHz,
31.5–31.8 GHz in Region 2,
48.94–49.04 GHz from airborne stations,
51.4–54.25 GHz,
58.2–59 GHz,
64–65 GHz,
86–92 GHz,
105–116 GHz,
140.69–140.98 GHz from airborne stations and from space stations in the space-to-Earth direction,
182–185 GHz except those provided for by No. S5.563,
217–231 GHz.

* * * * *

S5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.5–43.5 GHz and 47.2–50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5–39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2–49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5–42.5 GHz.

S5.553 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 134–142 GHz, 190–200 GHz and 252–265 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (see No. S5.43).

S5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 134–142 GHz, 190–200 GHz and 252–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

S5.555 Additional allocation: the bands 48.94–49.04 GHz, 97.88–98.08 GHz, 140.69–140.98 GHz, 144.68–144.98 GHz, 145.45–145.75 GHz, 146.82–147.12 GHz, 250–251 GHz and 262.24–262.76 GHz are also allocated to the radio astronomy service on a primary basis.

* * * * *

4. In the International Footnotes under heading II. Old Numbering Scheme, remove footnotes 898, 899, 900, and 901.

5. In the United States (US) Footnotes Add footnote US342 as follows:

United States (US) Footnotes

* * * * *

US342 In making assignments to stations of other services to which the bands:

13360–13410 kHz
37.5–38.25 MHz
322–328.6 MHz*
1330–1400 MHz*
1610.6–1613.8 MHz*
1660–1670 MHz
3260–3267 MHz*
3332–3339 MHz*
3345.8–3352.5 MHz*
4825–4835 MHz*
14.47–14.5 GHz*
22.01–22.21 GHz*
22.21–22.5 GHz
22.81–22.86 GHz*
23.07–23.12 GHz*
31.2–31.3 GHz
36.43–36.5 GHz*
42.5–43.5 GHz
48.94–49.04 GHz*
97.88–98.08 GHz*
140.69–140.98 GHz*
144.68–144.98 GHz*
145.45–145.75 GHz*
146.82–147.12 GHz*
262.24–262.76 GHz*
265–275 GHz

are allocated (* indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343/S4.5 and 344/S4.6 and Article 36/S29 of the ITU Radio Regulations).

* * * * *

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies sec. 303, 47 U.S.C. 303. 47 U.S.C. sections 154, 301, 302, 303, 307, 309, and 332, unless otherwise noted.

2. The table and footnotes in paragraph 25.202(a)(1) are revised to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a)(1) Frequency bands. The following frequencies are available for use by the fixed-satellite service. Precise frequencies and bandwidths of emission shall be assigned on a case-by-case basis.

Space-to-Earth (GHz)	Earth-to-space (GHz)
3.7–4.2 [1]	[1] 5.925–6.425
[1,2] 10.95–11.2	[4] 13.75–14.0
[1,2] 11.45–11.7	[5] 14.0–14.2
11.7–12.2 [3]	14.2–14.5
17.7–19.7 [1]	[1] 27.5–29.5
19.7–20.2	29.5–30.0
37.6–38.6	48.2–50.2
40.0–41.0	

[1] This band is shared coequally with terrestrial radiocommunication services.
[2] Use of this band by the fixed-satellite service is limited to international systems, i.e., other than domestic systems.
[3] Use of this band by the fixed-satellite service in Region 2 is limited to national and subregional systems. Fixed-satellite transponders may be used additionally for transmissions in the broadcasting-satellite service.
[4] This band is shared on an equal basis with the Government radiolocation service, grandfathered space stations in the Tracking and Data Relay Satellite System, and until January 1, 2000, spaceborne sensors.
[5] In this band, stations in the radionavigation service shall operate on a secondary basis to the fixed-satellite service.

* * * * *

[FR Doc. 99–974 Filed 1–14–99; 8:45 am]
BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 98–346]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we grant the Rural Health Care Corporation's request to reconsider the Commission's decision regarding the funding year for the rural health care universal service support mechanism. We conclude that the public interest will be served by changing the funding year for the rural health care universal service support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle (July 1–June 30), and extending the first funding year by six months to June 30, 1999. Moreover, we conclude that the transition to a fiscal year cycle should be implemented immediately. The intended effect is to have the

applications submitted during the initial 75-day filing window and approved for funding will be funded through June 30, 1999, within the funding limitations adopted.

DATES: Effective January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on December 31, 1998. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., 20554.

Summary of Ninth Order on Reconsideration in CC Docket No. 96–45

I. Discussion

1. We find that the public interest will be served by changing the funding year for the rural health care universal service support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle that will run from July 1–June 30, and extending the first funding period by six months to June 30, 1999. We conclude that the transition to a fiscal year should be implemented immediately. In order to accommodate the transition to a fiscal year funding cycle, the first funding period will be the 18-month period from January 1, 1998 through June 30, 1999. The second funding period will begin on July 1, 1999. Applications that were submitted during the initial 75-day filing window and approved for funding by the rural health care support mechanism will be funded through June 30, 1999, to the extent permitted by funding constraints. We direct the Rural Health Care Corporation (RHCC), in consultation with the Universal Service Administrative Company (USAC) and the Common Carrier Bureau, to establish a filing window for the next fiscal year, to open on March 1, 1999. Parties seeking support for the second funding period may begin to file applications on March 1, 1999. We also conclude that RHCC should determine the length of that window, and resolve other administrative matters necessary to implement a filing window in consultation with the Common Carrier Bureau. Upon consummation of the merger, USAC shall assume RHCC's role in implementing these directives.

2. We have decided to extend the initial funding period and implement a fiscal year funding cycle for rural health care, and to transition to this approach immediately, for several reasons. We agree with RHCC that applicants will benefit from the six-month extension. Although RHCC has received more than 2,500 applications for support, very few rural health care providers (RHCPs) have completed the application process. The transition to the fiscal year funding cycle adopted herein will afford applicants an opportunity to conclude negotiations with telecommunications service providers, and take advantage of the resources that they have already invested in the application process.

3. We also agree with RHCC that granting the extension will provide an opportunity to implement changes that may be identified in the near future to further enhance the operation of the rural health care universal service support mechanism. Specifically, we recently directed USAC to evaluate anticipated demand for 1999, and review the operations of the rural health care support mechanism to improve the opportunities for eligible rural health care providers to take advantage of the support mechanism. We further directed that USAC submit the results of such evaluation to the Commission by March 1, 1999. A six-month extension of the initial funding period will provide RHCC, USAC, and the Commission with additional time to implement any such changes prior to the commencement of the second funding period.

4. In addition, our decision to adopt a fiscal year funding period will synchronize the rural health care universal service support mechanism with the budgetary and planning cycle of the schools and libraries universal service support mechanism. This coordination of support mechanisms will simplify USAC's tasks of tracking collections, processing accumulated credits, and complying with financial reporting requirements. USAC also believes that consistency of year end close of books will provide the additional benefit of minimizing the frequency of disruptions therefrom.

5. Moreover, we find that, as noted in the *Fifth Order on Reconsideration,* 63 FR 143088 (August 12, 1998), using a fiscal year funding cycle will ease the administrative burden on carriers by aligning universal service contribution levels with the local exchange carrier annual access tariff filing schedule. Under our rules, local exchange carriers file their annual tariffs to be effective July 1 of each year. One piece of information these companies require in order to file their tariffs is the universal service contribution factors.

6. Additionally, we disagree with the U.S. Department of Health and Human Services (HHS) concern that granting RHCC's request for a six-month extension will result in less money being available for the support mechanism. It is anticipated that the rural health care support mechanism will have a balance of approximately $85.5 million at the end of the fourth quarter of 1998. As discussed in the *Contribution Factors Public Notice,* we directed that half of this amount be used to reduce the amount of contributions collected during the first quarter of 1999. We further directed that once USAC has completed its evaluation of rural health care funding needs, the amount remaining in the account, net of expected 1999 funding requirements, be used to reduce subsequent contribution factors. In light of current estimates of demand for support, as discussed in the *Contribution Factors Public Notice,* we conclude that there is sufficient funding for the rural health care support mechanism. HHS also believes that there may be confusion as to whether additional providers may apply for support during the six-month extension period, and if they are not permitted to do so, then the extension may be perceived as a delay. We are moving the start date for the second funding period, which should ameliorate the concerns of additional providers who wish to apply for support. Moreover, we reject the alternative ''grandfather'' approach suggested by HHS. As previously explained, HHS suggests considering any pending initial funding period applications in the second funding period, thus eliminating the need for applicants to resubmit those applications. Under such an approach, the rural health care mechanism's second funding period would begin on January 1, 1999. We would therefore be unable to convert the mechanism to a fiscal year cycle, and we would forgo the administrative benefits of such a conversion. Thus, we continue to believe that granting RHCC's request is in the public interest.

7. To accomplish the changes requested by RHCC, we conclude that, for applications filed within the initial 75-day filing window, the Administrator shall make funding commitments effective for services provided no earlier than January 1, 1998. These services will be funded at the approved monthly level through June 30, 1999. We conclude that this approach is reasonable because telecommunications services and Internet access are generally provided at regular, monthly intervals and are billed on a monthly, recurring basis.

8. The transition from a calendar year to a fiscal year also requires that we amend our rules concerning the acceptance of funding requests. The

universal service funding period for RHCPs presently runs from January 1 to December 31. Section 54.623(c) of the Commission's rules permits RHCPs to begin to apply for support on July 1 prior to each funding period. The 1998 funding period, which by this Order we extend to June 30, 1999, is the first funding period during which the universal service mechanism designed to benefit RHCPs is in place. The RHCC, the entity currently charged with administering the application process, did not begin accepting applications from health care providers for the first funding period until May 1, 1998, largely due to the challenges of implementing a new universal service support mechanism. As a result of this delay, RHCC was not able to accept applications for the second funding period beginning on July 1, 1998, and to date, has not opened a filing window for the second funding period nor received applications for support for the second funding period. Thus, we need to establish a new start date for the application process for the second funding period.

9. We conclude that a start date of March 1, 1999, for the application process for the second funding period will serve the public interest. Moving the start date to March 1, 1999, will give applicants sufficient time to complete their applications for the first funding period before they are required to submit applications for the second funding period. In addition, moving the start date to March 1, 1999, will allow applicants an opportunity to assess the sufficiency of the supported services they receive in the first funding period before they are asked to declare which services they will require in the second funding period. Accordingly, we find that the public interest will be served by amending section 54.623(c) of the Commission's rules and moving the commencement of the application process for the second funding period from July 1, 1998, to March 1, 1999.

10. The transition to a fiscal year funding cycle adopted herein further requires that we reconsider on our own motion the limitation on the exemption from competitive bidding for voluntary extensions of contracts. Our rules currently provide that voluntary extensions of existing contracts are not exempt from the competitive bidding rules. To accomplish an orderly transition to the fiscal year funding cycle, however, we conclude that we must allow existing contracts that have a termination date between December 31, 1998 and June 30, 1999 to be voluntarily extended to a date no later than June 30, 1999. Although voluntary extensions of contracts generally are not exempt from the competitive bidding requirement, we adopt this limited exception for voluntary extensions of contracts up to June 30, 1999. To hold otherwise would result in RHCPs either having to participate in competitive bidding for only a six-month service period, or not being eligible for support for that six-month period. We conclude that either result would be both administratively and financially unworkable for RHCPs. Thus, we find that the public interest will be served by amending the exemption from the competitive bidding requirements found in section 54.603 of the commission's rules, to allow RHCPs that filed applications within the 75-day initial filing window to extend voluntarily, to a date no later than June 30, 1999, existing contracts that otherwise would terminate between December 31, 1998 and June 30, 1999.

11. We conclude that the amendments to our rules adopted herein shall be effective upon publication in the **Federal Register**. In this Order, we adopt amendments that change the funding period for the rural health care support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle (July 1–June 30), and extend the first funding year for the rural health care support mechanism by six months to June 30, 1999. Thus, these amendments must take effect before the rural health care support mechanism's first funding year expires on December 31, 1998. Additionally, compliance with these amendments requires preparation only by USAC and RHCC. These entities will have actual notice of their obligations when the Commission adopts this Order, and both entities will be able to comply with these amendments in a short amount of time. Accordingly, pursuant to the Administrative Procedure Act, we find good cause to depart from the general requirement that final rules take effect not less than thirty days after their publication in the **Federal Register**.

II. Supplemental Final Regulatory Flexibility Analysis

12. In compliance with the Regulatory Flexibility Act (RFA), this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), only to the extent that changes to that Order adopted herein on reconsideration require changes in the conclusions reached in the FRFA. As required by section 603 RFA, 5 U.S.C. 603, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.

A. Need for and Objectives of this Order

13. The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules whose principal goal is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider one aspect of those rules. To give RHCPs an opportunity to complete the application process during the first funding period, we grant the request to reconsider the funding cycle for RHCPs. We conclude that the public interest will be served by changing the funding year for the rural health care universal service support mechanism from a calendar year cycle to a fiscal year cycle running from July 1 to June 30, and extending the first funding year by six months to June 30, 1999. Moreover, this change to a fiscal year funding cycle will synchronize the budgetary and planning cycles of the rural health care and schools and libraries universal service support mechanisms, and will align universal service contribution levels with projected reductions in access charges.

B. Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the FRFA

14. Nine entities filed comments in response to the Public Notice released on December 8, 1998. The overwhelming majority support RHCC's request to extend its initial funding year to June 30, 1999. One commenter, HHS, expressed concerns about the amount of funding available and the ability of additional providers to apply for support if the rural health care mechanism's funding year is extended through June 30, 1999. As previously discussed and in the *Contribution Factors Public Notice*, there is sufficient funding for the support mechanism, and the Commission has taken steps to ensure that additional providers will be able to apply for support. The Commission also rejected HHS's suggestion of a ''grandfather'' approach because it would preclude converting the rural health care support mechanism to a fiscal year cycle and would prevent

USAC and RHCPs from realizing the administrative efficiencies associated with a fiscal year cycle.

C. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Order Will Apply

15. In the FRFA at paragraphs 890–925 of the *Universal Service Order,* we described and estimated the number of small entities that would be affected by the new universal service rules. The rules adopted herein may apply to the same entities affected by the universal service rules. We therefore incorporate by reference paragraphs 890–925 of the *Universal Service Order.*

D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives

16. In the FRFA to the *Universal Service Order,* we described the projected reporting, recordkeeping, and other compliance requirements and significant alternatives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 956–60, 968–71, and 980 of the *Universal Service Order,* which describe those requirements and provide the following analysis of the new requirements adopted herein.

17. Under the rules adopted herein, we revise the funding year for the rural health care support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle (July 1–June 30), and extend the first funding year by six months to June 30, 1999. This revision will benefit RHCPs in three ways: (1) it will give them an opportunity to complete the application process for the initial funding cycle; (2) it will synchronize the rural health care support mechanism with the budgetary and planning cycles of schools and libraries support mechanism, thereby resulting in administrative efficiencies for USAC; and (3) it will align universal service contribution levels with projected reductions in access charges. These changes will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the rural health care support mechanism.

E. Steps Taken To Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives

18. In the FRFA to the *Universal Service Order,* we described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 961–67, 972–76, and 981–82 of the *Universal Service Order,* which describe those requirements and provide the following analysis of the new requirements adopted herein.

19. As previously described, our decision to change to a fiscal year funding cycle, and extend the first funding year by six months, will benefit RHCPs, as well as their chosen service providers, who may be small entities, by ensuring that they have an opportunity to complete the application process, and recoup their investment therein. We also find that this approach strikes the best balance between fulfilling the statutory mandate to enhance access to telecommunications services for RHCPs, and fulfilling the statutory principle of providing quality services at ''just, reasonable, and affordable rates,'' without imposing unnecessary burdens on RHCPs or service providers, including small entities.

III. Ordering Clauses

20. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, and 405; 47 CFR 1.108, the Ninth Order on Reconsideration is adopted, and 47 CFR Part 54, are amended as set forth in the rule changes.

21. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Ninth Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 54—UNIVERSAL SERVICE

1. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.604 by revising paragraph (d) to read as follows:

§ 54.604 Existing contracts.

* * * * *

(d) The exemption from the competitive bid requirements set forth in paragraph (a) shall not apply to voluntary extensions of existing contracts, with the exception that an eligible health care provider as defined under § 54.601 or consortium that includes an eligible health care provider, that filed an application within the initial 75-day filing window (May 1, 1998–July 14, 1998) may voluntarily extend, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between December 31, 1998 and June 30, 1999.

3. Amend § 54.623 by revising paragraphs (b) and (c) to read as follows:

§ 54.623 Cap.

* * * * *

(b) *Funding year.* A funding year for purposes of the health care providers cap shall be the period July 1 through June 30. For the initiation of the mechanism only, the eighteen month period from January 1, 1998 to June 30, 1999 shall be considered a funding year. Eligible health care providers filing applications within the initial 75-day filing window shall receive funding for requested services through June 30, 1999.

(c) *Requests.* Funds shall be available as follows:

(1) Generally, funds shall be available to eligible health care providers on a first-come-first-served basis, with requests accepted beginning on the first of January prior to each funding year.

(2) For the initial funding year, the Administrator shall implement an initial filing period that treats all health care providers filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Administrator begins to receive applications for support, and shall conclude on a date to be determined by the Administrator.

(3) For the second funding year, which will begin on July 1, 1999, the Administrator shall implement a filing period that treats all health care providers filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Administrator begins to receive applications for support, and shall conclude on a date to be determined by the Administrator.

(4) The Administrator may implement such additional filing periods as it deems necessary.

* * * * *

[FR Doc. 99–972 Filed 1–14–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–248; RM No. 9097; FCC 98–189]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission amended its rules regarding access to cable programming. These rules contained new and modified information collection requirements and became effective on December 23, 1998.

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Steven Broeckaert, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION:

1. On August 6, 1998, the Commission adopted an order revising its program access rules. The revised rules will further the Commission's goal of increasing competition in the market for multichannel video programming by improving access to programming for all providers. See 63 FR 45740, August 27, 1998. Because amended § 76.1003 of the Commission's rules imposed new or modified information collection requirements, it could not become effective until approved by the Office of Management and Budget (''OMB''). OMB approved the rule changes on December 23, 1998.

2. The order stated that, upon approval by OMB, the Commission would publish a document announcing the effective date of the rules. The amendments to 47 CFR 76.1003 became effective on December 23, 1998.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–973 Filed 1–14–99; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 208, 213, 216, 217, 219, 223, 225, 237, 242, 246, 247, and 253

[DFARS Case 97–D306]

Defense Federal Acquisition Regulation Supplement; Simplified Acquisition Procedures

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update guidance on simplified acquisition procedures for consistency with the reorganization of simplified acquisition procedures in the Federal Acquisition Regulation (FAR).

EFFECTIVE DATE: January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Schneider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 97–D306.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule revises DFARS Part 213 to conform to the revision of FAR Part 13 that was published as Item IV of Federal Acquisition Circular 97–03 on December 9, 1997 (62 FR 64916). The rule also amends other parts of the DFARS for consistency with FAR amendments that implemented provisions of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) pertaining to simplified acquisition procedures (e.g., replacement of the term ''small purchase'' with the term ''simplified acquisition''). The FAR amendments were published as Item III of Federal Acquisition Circular 90–29 (60 FR 34741, July 3, 1995) and Item II of Federal Acquisition Circular 90–40 (61 FR 39189, July 26, 1996).

A proposed DFARS rule was published on May 8, 1998 (63 FR 25438). Seven respondents submitted comments on the proposed rule. All comments were considered in developing the final rule. The guidance at 213.270 of the proposed rule, pertaining to use of the Governmentwide commercial purchase card, has been excluded from the final rule, as the underlying policy memoranda have been canceled and superseded. The superseding policy memorandum, issued by the Principal Deputy Under Secretary of Defense for Acquisition and Technology on October 2, 1998, entitled ''Streamlined Payment Practices for Awards/Orders Valued at or below the Micro-Purchase Threshold,'' will be implemented in a future amendment to the DFARS.

B. Regulatory Flexibility Act

The Department of Defense certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule primarily consists of conforming DFARS amendments and internal Government procedures to implement existing FAR guidance pertaining to purchase at or below the simplified acquisition threshold.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 204, 208, 213, 216, 217, 219, 223, 225, 237, 242, 246, 247, and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 204, 208, 213, 216, 217, 219, 223, 225, 237, 242, 246, 247, and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 204, 208, 213, 216, 217, 219, 223, 225, 237, 242, 246, 247, and 253 continues to read as follows:

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

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.670–2 is amended by revising paragraph (c) to read as follows:

§ 204.670–2 Reportable contracting actions.

* * * * *

(c) Summarize on the monthly DD Form 1057, in accordance with the instructions in 253.204–71(a)(3), contracting actions that—

(1) Support a contingency operation as defined in 10 U.S.C. 101(a)(13) or a

humanitarian or peacekeeping operation as defined in 10 U.S.C. 2303(7); and

(2) Obligate or deobligate funds exceeding $25,000 but not exceeding $200,000.

* * * * *

204–804–1 [Amended]

3. Section 204.804–1 is amended in paragraph (2) by removing the phrase ''small purchase'' and adding in its place the phrase ''simplified acquisition''.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

4. Section 208.405–2 is revised to read as follows:

208.405–2 Order placement.

(1) When ordering from schedules, ordering offices—

(i) May use DD Form 1155, Order for Supplies or Services, to place orders for—

(A) Commercial items at or below the simplified acquisition threshold; and

(B) Other than commercial items at any dollar value (see 213.307);

(ii) Shall use SF 1449, Solicitation/Contract/Order for Commercial Items, to place orders for commercial items exceeding the simplified acquisition threshold (see FAR 12.204); and

(iii) May use SF 1449 to place orders for other than commercial items at any dollar value.

(2) Schedule orders may be placed orally if—

(i) The contractor agrees to furnish a delivery ticket for each shipment under the order (in the number of copies required by the ordering office). The ticket must include the—

(A) Contract number;

(B) Order number under the contract;

(C) Date of order;

(D) Name and title of person placing the order;

(E) Itemized listing of supplies or services furnished; and

(F) Date of delivery or shipment; and

(ii) Invoicing procedures are agreed upon. Optional methods of submitting invoices for payment are permitted, such as—

(A) An individual invoice with a receipted copy of the delivery ticket;

(B) A summarized monthly invoice covering all oral orders made during the month, with receipted copies of the delivery tickets (this option is preferred if there are many oral orders); or

(C) A contracting officer statement that the Government has received the supplies.

(3) For purchases where cash payment is an advantage, the use of imprest funds in accordance with 213.305 is authorized when—

(i) The order does not exceed the threshold at FAR 13.305–3(a); and

(ii) The contractor agrees to the procedure.

(4) The Governmentwide commercial purchase card may be used to place schedule orders in accordance with agency procedures.

5. Section 208.7204 is amended by revising paragraph (a) to read as follows:

208.7204 Procedures.

(a) Except as otherwise provided in FAR or DFARS, solicit planned producers for all acquisitions of their planned items, when the acquisition exceeds the simplified acquisition threshold.

* * * * *

6. Section 208.7305 is amended by revising paragraph (a)(3) to read as follows:

208.7305 Contract clause.

(a) * * *

(3) For acquisitions at or below the simplified acquisition threshold.

* * * * *

7. Part 213 is revised to read as follows:

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

Sec.

213.005 Federal Acquisition Streamlining Act of 1994 list of inapplicable laws.

Subpart 213.3—Simplified Acquisition Methods

213.302 Purchase orders.
213.302–3 Obtaining contractor acceptance and modifying purchase orders.
213.302–5 Clauses.
213.303 Blanket purchase agreements (BPAs).
213.303–5 Purchases under BPAs.
213.305 Imprest funds and third party drafts.
213.305–1 General.
213.305–3 Conditions for use.
213.306 SF 44, Purchase Order-Invoice-Voucher.
213.307 Forms.

Subpart 213.4—Fast Payment Procedure

213.402 Conditions for use.

Subpart 213.70—Simplified Acquisition Procedures Under the 8(a) Program

213.7001 Policy.
213.7002 Procedures.
213.7003 Purchase orders.
213.7003–1 Obtaining contractor acceptance and modifying purchase orders.
213.7003–2 Contract clauses.

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

213.005 Federal Acquisition Streamlining Act of 1994 list of inapplicable laws.

(a) The restriction on use of funds appropriated for fiscal year 1998 in Section 8117 of the National Defense Appropriations Act for Fiscal Year 1998 (Pub. L. 105–56) is inapplicable to contracts at or below the simplified acquisition threshold (see 222.1304(b)).

Subpart 213.3—Simplified Acquisition Methods

213.302 Purchase orders.

213.302–3 Obtaining contractor acceptance and modifying purchase orders.

(1) Require written acceptance of purchase orders for classified acquisitions.

(2) Generally, use unilateral modifications (see FAR 43.103) for—

(i) No-cost amended shipping instructions if—

(A) The amended shipping instructions modify a unilateral purchase order; and

(B) The contractor agrees orally or in writing; and

(ii) Any change made before work begins if—

(A) The change is within the scope of the original order;

(B) The contractor agrees;

(C) The modification references the contractor's oral or written agreement; and

(D) Block 13D of Standard Form 30, Amendment of Solicitation/Modification of Contract, is annotated to reflect the authority for issuance of the modification.

(3) A supplemental agreement converts a unilateral purchase order to a bilateral agreement. If not previously included in the purchase order, incorporate the clause at 252.243–7001, Pricing of Contract Modifications, in the Standard Form 30, and obtain the contractor's acceptance by signature on the Standard Form 30.

213.302–5 Clauses.

Use the clause at 252.243–7001, Pricing of Contract Modifications, in all bilateral purchase orders.

213.303 Blanket purchase agreements (BPAs).

213.303–5 Purchases under BPAs.

(b) Individual purchases for subsistence may be made at any dollar value; however, the contracting officer must satisfy the competition requirements of FAR Part 6 for any action not using simplified acquisition procedures.

213.305 Imprest funds and third party drafts.

213.305–1 General.

(1) As a matter of policy, DoD does not support the use of cash payments from imprest funds. This policy is based, in part, on the mandatory electronic funds transfer requirements of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

(2) On a very limited basis, installation commanders and commanders of other activities with contracting authority may be granted authority to establish imprest funds and third party draft (accommodation check) accounts.

(3) Third party draft accounts, when established in accordance with DoD 7000.14–R, DoD Financial Management Regulation, Volume 5, Disbursing Policy and Procedures—

(i) Provide an alternative to cash and U.S. Treasury checks when the use of Government purchase or travel cards is not feasible;

(ii) Eliminate the need for cash on hand for imprest fund transactions; and

(iii) Give issuing activities the flexibility to issue low-volume and low-dollar value payment on site.

213.305–3 Conditions for use.

(d)(i) Use of imprest funds—

(A) Must comply with the conditions stated in—

(1) DoD 7000.14–R, DoD Financial Management Regulation, Volume 5, Disbursing Policy and Procedures; and

(2) The Treasury Financial Manual, Part 4, Chapter 3000, Section 3020; and

(B) Except as provided in paragraph (d)(ii) of this subsection, requires approval by the Director for Financial Commerce, Office of the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller).

(ii) Imprest funds are authorized for use without further approval for—

(A) Overseas transactions at or below the micro-purchase threshold in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7); and

(B) Classified transactions.

213.306 SF 44, Purchase Order-Invoice-Voucher.

(a)(1) The micro-purchase limitation applies to all purchases, except that purchases not exceeding the simplified acquisition threshold may be made for—

(A) Aviation fuel and oil;

(B) Overseas transactions by contracting officers in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7); and

(C) Transactions in support of intelligence and other specialized activities addressed by Part 2.7 of Executive Order 12333.

213.307 Forms.

(a) If SF 1449 is not used, use DD Form 1155 in accordance with paragraph (b)(i) of this section.

(b)(i) Use DD Form 1155, Order for Supplies or Services, for purchases made using simplified acquisition procedures.

(A) The DD Form 1155 serves as a—

(1) Purchase order or blanket purchase agreement;

(2) Delivery order or task order;

(3) Receiving and inspection report;

(4) Property voucher;

(5) Document for acceptance by the supplier; and

(6) Public voucher, when used as—

(i) A delivery order;

(ii) The basis for payment of an invoice against blanket purchase agreements or basic ordering agreements when a firm-fixed-price has been established; or

(iii) A purchase order for acquisitions using simplified acquisition procedures.

(B) The DD Form 1155 is also authorized for use for—

(1) Orders placed in accordance with FAR Subparts 8.4, 8.6, 8.7, and 16.5; and

(2) Classified acquisition when the purchase is made within the United States, its possessions, and Puerto Rico. Attach the DD Form 254, Contract Security Classification Specification, to the purchase order.

(ii) Do not use Optional Form 347, Order for Supplies or Services, or Optional Form 348, Order for Supplies or Services Schedule—Continuation.

(iii) Use Standard Form 30, Amendment of Solicitation/Modification of Contract, to—

(A) Modify a purchase order; or

(B) Cancel a unilateral purchase order.

Subpart 213.4—Fast Payment Procedure

213.402 Conditions for use.

(a) Individual orders may exceed the simplified acquisition threshold for—

(i) Brand-name commissary resale subsistence; and

(ii) Medical supplies for direct shipment overseas.

Subpart 213.70—Simplified Acquisition Procedures Under the 8(a) Program

213.7001 Policy.

For sole source acquisitions under the 8(a) Program, contracting officers may use the procedures established in the Memorandum of Understanding cited in 219.800.

213.7002 Procedures.

For acquisitions that are otherwise appropriate to be conducted using procedures set forth in this part, and also eligible for the 8(a) Program, contracting officers may use—

(a)(1) For sole source purchase orders not exceeding the simplified acquisition threshold, the procedures in 219.804–2(2); or

(2) For other types of acquisitions, the procedures in Subpart 219.8, excluding the procedures in 219.804–2(2); or

(b) The procedures for award to the Small Business Administration in FAR Subpart 19.8.

213.7003 Purchase orders.

213.7003–1 Obtaining contractor acceptance and modifying purchase orders.

The contracting officer need not obtain a contractor's written acceptance of a purchase order or modification of a purchase order for an acquisition under the 8(a) Program pursuant to 219.804–2(2).

213.7003–2 Contract clauses.

Use the clauses prescribed in 219.811–3 (1) and (3) for purchase orders under the 8(a) Program pursuant to the Memorandum of Understanding cited in 219.800.

PART 216—TYPES OF CONTRACTS

8. Section 216.203–4 is amended in the introductory text of paragraph (a) by adding a comma after the word ''Supplies''; and by revising paragraphs (a)(i) and (b)(i) to read as follows:

216.203–4 Contract clauses.

(a) * * *

(i) The total contract price exceeds the simplified acquisition threshold; and

* * * * *

(b) * * *

(i) The total contract price exceeds the simplified acquisition threshold; and

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

9. Section 217.7302 is amended by revising paragraph (b) to read as follows:

217.7302 Procedure.

* * * * *

(b) The requirement in paragraph (a) of this section does not apply to contracts that are—

(1) For commercial items; or

(2) Valued at or below the simplified acquisition threshold.

10. Section 217.7504 is amended by revising paragraph (a)(2) to read as follows:

217.7504 Limitations on price increases.

* * * * *

(a) * * *

(2) Departments and agencies may specify an alternate percentage or percentages for contracts at or below the simplified acquisition threshold.

* * * * *

PART 219—SMALL BUSINESS PROGRAMS

11. Section 219.201 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively; and by revising newly designated paragraph (d)(9)(A) to read as follows:

219.201 General policy.

* * * * *

(d) * * *

(9) * * *

(A) Reviewing and making recommendations for all acquisitions over $10,000, except those restricted for exclusive small business participation;

* * * * *

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

12. Section 223.570–4 is amended by revising paragraph (b) to read as follows:

223.570–4 Contract clause.

* * * * *

(b) Do not use the clause in solicitations and contracts—

(1) For commercial items;

(2) When performance or partial performance will be outside the United States, its territories, and possessions, unless the contracting officer determines such inclusion to be in the best interest of the Government; or

(3) When the value of the acquisition is at or below the simplified acquisition threshold.

PART 225—FOREIGN ACQUISITION

13. Section 225.105 is amended by revising paragraph (5)(ii)(B) to read as follows:

225.105 Evaluating offers.

* * * * *

(5) * * *

(ii) * * *

(B) ''Domestically produced or manufactured products'' under small business set-asides or small business reservations; and

* * * * *

14. Section 225.770–3 is amended by revising paragraph (a) to read as follows:

225.770–3 Exceptions.

* * * * *

(a) Purchase at or below the simplified acquisition threshold;

* * * * *

PART 237—SERVICE CONTRACTING

237.7302 [Amended]

15. Section 237.7302 is amended in the third sentence by removing the reference ''13.105'' and adding in its place the reference ''13.003(b)(1)''.

PART 242—CONTRACT ADMINISTRATION

242.203 [Amended]

16. Section 242.203 is amended in paragraph (a)(i)(P) by adding, after the semicolon, the word ''and''; in paragraph (a)(i)(Q) by removing ''; and'' and adding a period in its place; and by removing paragraph (a)(i)(R).

PART 246—QUALITY ASSURANCE

17. Section 246.370 is amended by revising paragraph (b)(1) to read as follows:

246.370 Material inspection and receiving report.

* * * * *

(b) * * *

(1) Contracts awarded using simplified acquisition procedures;

* * * * *

PART 247—TRANSPORTATION

18. Section 247.271–3 is amended by revising paragraphs (b)(1) and (b)(2)(iv)(B) to read as follows:

247.271–3 Procedures.

* * * * *

(b) * * *

(1) Excess requirements are those services that exceed contractor capabilities available under contracts. Use simplified acquisition procedures to satisfy excess requirements.

(2) * * *

(iv) * * *

(B) Using simplified acquisition procedures.

* * * * *

19. Section 247.573 is amended by revising paragraphs (a), (b), and (c) to read as follows:

247.573 Solicitation provision and contract clauses.

(a) Use the provision at 252.247–7022, Representation of Extent of Transportation by Sea, in all solicitations except—

(1) Those for direct purchase of ocean transportation services; or

(2) Those with an anticipated value at or below the simplified acquisition threshold.

(b) Use the clause at 252.247–7023, Transportation of Supplies by Sea, in all solicitations and resultant contracts, except—

(1) Those for direct purchase of ocean transportation services; or

(2) Those with an anticipated value at or below the simplified acquisition threshold.

(c) Use the clause at 252.247–7024, Notification of Transportation of Supplies by Sea, in all contracts for which the offeror made a negative response to the inquiry in the provision at 252.247–7022, Representation of Extent of Transportation by Sea.

* * * * *

PART 253—FORMS

253.204–70 [Amended]

20. Section 253.204–70 is amended in paragraph (d)(5)(iv)(A) *(2)* by removing the reference ''13.105'' and adding in its place the reference ''13.003(b)(1)''.

21. Section 253.204–71 is amended by revising paragraph (a)(3) introductory text and paragraphs (g)(2)(ii)(C) and (i)(1) to read as follows:

253.204–71 DD Form 1057, Monthly Contracting Summary of Actions $25,000 or Less.

(a) * * *

(3) Report actions of $25,000 or less in support of a contingency operation as defined in 10 U.S.C. 101(a)(13), or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7), in accordance with the instructions in paragraphs (c) through (j) of this subsection. Report actions exceeding $25,000 but not exceeding $200,000 in support of a contingency operation as defined in 10 U.S.C. 101(a)(13), or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7), on the monthly DD Form 1057 as follows:

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(C) Block E2c, SB Set-Aside Using Simplified Acquisition Procedures. Enter actions pursuant to FAR 13.003(b)(1) when award is to an SDB, but a preference was not applied.

* * * * *

(i) * * *

(1) Enter the total number and dollar value of actions in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7). The numbers entered

here are a breakout of the numbers already entered in Sections B and C.

* * * * *

22. Section 253.213 is amended by revising the section heading; by redesignating paragraph (e) as paragraph (f); and in newly designated paragraph (f) by revising the introductory text of (f) and paragraph (f)(i) to read as follows:

253.213 Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348).

(f) DoD uses the DD Form 1155, Order for Supplies or Services, instead of OF 347; and OF 336, Continuation Sheet, instead of OF 348.

(i) Use the DD Form 1155 as prescribed in 213.307(b)(i) and in accordance with the instructions at 253.213–70.

* * * * *

[FR Doc. 99–844 Filed 1–14–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 98–D310]

Defense Federal Acquisition Regulation Supplement; Para-Aramid Fibers and Yarns

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Section 807 sets forth conditions under which DoD may procure articles containing para-aramid fibers and yarns manufactured in certain foreign countries.

DATES: Effective date: January 15, 1999.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before March 16, 1999, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T) DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 98–D310 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98–D310 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

The ''Berry Amendment'' (10 U.S.C. 2241 note) restricts the procurement of foreign synthetic fabric or coated synthetic fabric, including textile fibers and yarns for use in such fabrics. Section 807 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) provides that the Secretary of Defense may waive the foreign source restrictions for para-aramid fibers and yarns under certain conditions. This interim rule amends DFARS 225.7002–2 and the clause at 252.225–7012 to implement Section 807.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the only known U.S. manufacturer of para-aramid fibers and yarns is DuPont, which is a large business. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 98–D310 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 807 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, which sets forth conditions under which DoD may procure articles containing para-aramid fibers and yarns manufactured in certain foreign countries. Section 807 became effective on October 17, 1998. Comments received in response to the publication of this interim rule will be considered formulating the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.7002–2 is amended by adding paragraph (k) to read as follows:

225.7002–2 Exceptions.

* * * * *

(k) Purchases of articles containing para-aramid fibers and yarns manufactured in a qualifying country (see 225.872) if the Secretary of Defense makes a determination in accordance with Section 807 of Pub. L. 105–261 that—

(1) Procuring articles that contain only para-aramid fibers and yarns manufactured from suppliers within the United States or its possessions would result in sole source contracts or subcontracts for the supply of such para-aramid fibers and yarns;

(2) Such sole source contracts or subcontracts would not be in the best interest of the Government or consistent with the objectives of the Competition in Contracting Act (10 U.S.C. 2304); and

(3) The qualifying country permits U.S. firms that manufacture para-aramid fibers and yarns to compete with foreign firms for the sale of para-aramid fibers and yarns in that country.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.225–7012 is amended by revising the clause date; in paragraph (b)(3) by removing ''or'' at the end; in paragraph (b)(4)(iv) by removing the period and adding in its place ''; or''; and by adding paragraph (b)(5) to read as follows:

252.225–7012 Preference for certain domestic commodities.

* * * * *

Preference for Certain Domestic Commodities (Jan 1999)

* * * * *

(b) * * *

(5) To purchases of articles containing para-aramid fibers and yarns manufactured in a country listed in subsection 225.872–1 of the Defense FAR Supplement, if the Secretary of Defense makes a determination for such purchases in accordance with Section 807 of Pub. L. 105–261.

(End of clause)

[FR Doc. 99–845 Filed 1–14–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 97–D024]

Defense Federal Acquisition Regulation Supplement; Order for Supplies or Services

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update instructions for completion of a form that DoD contracting officers use to place orders for supplies and services.

EFFECTIVE DATE: January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 97–D024.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 253.213–70 to update instructions for completion of DD Form 1155, Order for Supplies or Services. The amendments address use of the form for purchases under blanket purchase agreements, and make other minor editorial changes.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97–D024.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 253 is amended as follows:

1. The authority citation for 48 CFR Part 253 continues to read as follows:

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

PART 253—FORMS

2. Section 253.213–70 is amended in paragraph (e) by revising the introductory text and the entries for Blocks 1, 2, 3, and 13 to read as follows:

253.213–70 Instructions for completion of DD Form 1155.

* * * * *

(e) Instructions for DD Form 1155 entries. (Instructions apply to purchase orders, delivery orders, and calls, except Block 2, which applies only to delivery orders and calls, and Block 12, which applies only to purchase orders.)

Block

1 Contract/Purch Order/Agreement No.—Enter the Procurement Instrument Identification (PII) number and, when applicable, the supplementary identification number for contracts, purchase orders, and agreements as prescribed in Subpart 204.70.

2 Delivery Order/Call No.—Enter the PII number for delivery orders/calls, when applicable, as prescribed in Subpart 204.70.

3 Date of Order/Call—Enter the four position numeric year, three position alpha month, and two position numeric day.

* * * * *

13 Mail Invoices to the Address in Block—Enter a reference to the block number containing the address to which invoices are to be mailed. When not in Block 6, 7, 14, or 15, insert in Block 13, ''see schedule.''

* * * * *

[FR Doc. 99–846 Filed 1–14–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 010699B]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Summer Flounder Commercial Quota Transfer from North Carolina to Virginia

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

ACTION: Commercial quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 5,000 lb (2,268 kg) of commercial summer flounder quota to the Commonwealth of Virginia from its 1999 quota. NMFS adjusted the quotas and announces the revised commercial quota for each state involved.

DATES: Effective January 12, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary M. Grim, Fishery Management Specialist, (978) 281–9326.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1999 calendar year was set equal to 11,111,191 lb (5,039,951 kg) (63 FR 72203, December 31, 1998). The resulting quota for Virginia is 2,368,569 lb (1,074,365 kg) and for North Carolina is 3,049,589 lb (1,383,270 kg).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP) was published December 17, 1993 (58 FR 65936), and allows two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS, (Regional Administrator) to transfer or combine summer flounder commercial quota. The Regional Administrator is required to consider the criteria set forth in § 648.100(e)(1) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 5,000 lb (2,268 kg) of its 1999

commercial quota to Virginia. The Regional Administrator has determined that the criteria set forth in § 648.100(e)(1) have been met, and publishes this notification of quota transfer. The revised quotas for the calendar year 1999 are: Virginia, 2,373,569 lb (1,076,633 kg); and North Carolina, 3,044,589 lb (1,381,002 kg).

This action does not alter any of the conclusions reached in the environmental impact statement prepared for Amendment 2 to the FMP regarding the effects of summer flounder fishing activity on the human environment. Amendment 2 established procedures for setting an annual coastwide commercial quota for summer flounder and a formula for determining commercial quotas for each state. The quota transfer provision was established by Amendment 5 to the FMP and the environmental assessment prepared for Amendment 5 found that the action had no significant impact on the environment. Under section 6.02b.3(b)(I)(aa) of NOAA Administrative Order 216–6, this action is categorically excluded from the requirement to prepare additional environmental analyses. This is a routine administrative action that reallocates commercial quota within the scope of previously published environmental analyses.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: January 11, 1999.

Bruce Morehead,

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

[FR Doc. 99–1001 Filed 1–12–99; 3:29 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981231335–8335–01; I.D. 122498B]

RIN 0648–AM14

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 26

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework 26 of the Northeast Multispecies Fishery Management Plan (FMP). This final rule implements management measures that expand the April Gulf of Maine (GOM) closure area and adds an inshore GOM closure area and an offshore Georges Bank (GB) closure area for the month of February. The intent of this action is to provide additional protection for cod, particularly GOM cod, during the 1999 spring spawning season, while the New England Fishery Management Council (Council) develops the May 1, 1999, annual framework adjustment to address the fishing mortality reductions identified by the Multispecies Monitoring Committee (MSMC).

DATES: Effective January 19, 1999.

ADDRESSES: Copies of Amendment 7 to the FMP (Amendment 7), its regulatory impact review (RIR), and the final regulatory flexibility analysis contained with the RIR, its final supplemental environmental impact statement, and Framework Adjustment 26 documents are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978–281–9252.

SUPPLEMENTARY INFORMATION: Results from the Northeast Regional Stock Assessment Workshop 27 (SAW 27), presented to the Council at its August 1998 meeting, concluded that the GOM cod stock is at a very low biomass level and remains overexploited. Although fishing mortality has declined from 1996 levels, the report estimates that there is a 90-percent probability that the 1997 fishing mortality is at least twice the maximum allowable level for achieving stock rebuilding. Spawning stock biomass (SSB) has declined from more than 26,000 metric tons (mt) in 1989 to a record low of 6,600 mt in 1998, and is expected to further decline in 1999 to a record low of 5,700 mt or less. Furthermore, recruitment from the three most recent year classes produced in 1994, 1995, and 1996 is extremely poor and far below any previously observed levels. The combined effects of low SSB, high fishing mortality, record low recruitment, and record low survival of pre-recruit fish indicate that the stock is collapsing. Management advice contained in the SAW 27 Advisory Report recommends immediate action to cease all directed fishing and minimize by catch on this stock.

Although SAW 27 information regarding GB cod is less dismal, the report concluded that this stock is also at a low biomass level and remains overexploited relative to the Amendment 7 rebuilding target of $F_{0.1}$. Fishing mortality has declined significantly from the record high levels in 1994 and 1995 but still remains about 45 percent higher than the Amendment 7 objective of $F_{0.1} = 0.18$. Management advice recommends a reduction in fishing mortality to substantially less than the $F_{0.1}$ objective. The MSMC, which delivered its report at the December 1998 Council meeting, confirmed the findings of SAW 27 for both stocks of cod.

The GOM cod situation is very critical. Preliminary landing statistics for this stock indicate that more than 100 percent of the 1998 total allowable catch (TAC) level of 1,783 mt was landed within the first 6 months of the 1998 fishing year. Based on this information, the Council and NMFS are very concerned that current management measures are not sufficient to prevent further stock decline. Given this concern, and the upcoming opportunity to delay fishing mortality on mature cod during the spring spawning period, a time when stocks aggregate and are particularly vulnerable to fishing pressure, the Council initiated development of Framework 26 to afford some additional protection prior to the May 1, 1999, annual framework adjustment. The Council and NMFS believe that preservation of SSB is necessary to prevent a stock collapse caused by poor recruitment, while enhancing the probability of long-term rebuilding.

This action implements measures to modify the current April Inshore Closure Area within the GOM and would add an inshore closure area and offshore closure area to protect GOM and GB cod, respectively, for the month of February. The current March Inshore Closure Area and the year-round near shore Western GOM Closure Area would remain in effect. These closures, in combination, represent areas that have the highest catch per unit effort of cod.

Abbreviated Rulemaking

NMFS is making these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart F. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance

notice of both the proposals and the analysis, and an opportunity to comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Administrator, Northeast Region, NMFS, that the measures be published as a final rule if certain conditions are met. NMFS may publish the measures as a final rule, or as a proposed rule if additional public comment is necessary.

The public was provided the opportunity to express comments on the management of cod at numerous meetings beginning at the August 10–11, 1998, Council meeting. At this meeting, the Northeast Fisheries Science Center presented results of SAW 27, which updated the status of GOM and GB cod, among other stocks. For both stocks, a reduction in fishing mortality was recommended; however, for GOM cod, SAW 27 scientists recommended the Council take immediate action to reduce fishing mortality to levels approaching zero. The following list includes all of the 1998 meetings at which this action was on the agenda, was discussed, and public comment was heard:

Date	Meeting
Aug. 10–11	Council.
Aug. 27	Special Council.
Sept. 17	Multispecies Oversight Committee.
Sept. 23–24	Council.
Oct. 28–29	Council.
Nov. 16	Multispecies Oversight Committee.
Dec. 9–10	Council.

Documents summarizing the Council's proposed action, and the analysis of biological and economic impacts of this and alternative actions, were available for public review 1 week prior to the final meeting, as is required under the framework adjustment process. Written comments were accepted up to and during that meeting.

Comments and Responses

Comment 1: Many members of the fishing industry commented that this rule treats inshore vessels unfairly and does not protect cod in offshore areas.

Response: The Council and NMFS have fully considered the impacts on inshore vessels in light of the need to implement this rule. For the time period February through April, the Council evaluated the alternatives in terms of conservation benefits compared to costs imposed on the harvesting industry. Out of the four alternative area closures analyzed in Framework 26, including an industry proposal and a variation of the industry proposal, the selected alternative has the second to least negative impacts on revenue when considering all species combined, while affecting those areas that have the highest catch per unit effort of cod. Because this rule was developed to afford additional protection for cod during the spring spawning period (a time when the cod are concentrated inshore), offshore areas did not show the same level of cod landings as the inshore areas. The expanded protection of cod year-round will be addressed in Framework Adjustment 27, currently under development.

Comment 2: Measures in Framework 26 cause severe social impacts on inshore vessels because they have little or no alternatives available to them during the months of February through April.

Response: The analysis notes that this action will have severe negative social impacts, especially on small vessels from fishing communities directly bordering the closure areas and, to a lesser degree, on vessels from other fishing communities that traditionally have fished within the closure areas. However, because of extremely poor recruitment of GOM cod and the possibility of a stock collapse, the Council and NMFS believe there is no other acceptable alternative available to protect the spawning biomass of this stock during the upcoming season.

Comment 3: Several industry members have commented that closing additional areas during the course of the fishing year may disrupt fishing strategies and possibly cause some vessels to lose income from their remaining multispecies days-at-sea (DAS).

Response: The Council and NMFS took this concern into account in developing this final rule. This action does not prevent vessel owners from using their DAS. Additionally, because this action was initiated by the Council in September, industry members have known for several months that the Council would be recommending inshore closures for the February through April time period.

Comment 4: Some fishers stated that GOM cod could be better protected through adjustments to the trip limit because fishing vessels can target flounder without catching substantial amounts of cod.

Response: A trip limit restriction through an adjustment to the ''running clock'' mechanism was analyzed in Framework 26. (The current GOM cod trip limit system allows vessels to land cod exceeding the daily limit (currently 400 lb per day) as long as the vessel remains in port and does not call out to end the trip until sufficient time has elapsed to account for the overage.) The analysis for this action shows that for the February through April period, greater conservation can be achieved by this area closure action than through an adjustment to the trip limit restriction.

Classification

Notice and opportunity for public comment were provided to discuss the management measures implemented by this rule. Comments were received from members of the fishing industry and are responded to in the preamble of this rule. Therefore, the Assistant Administrator for Fisheries, NOAA (AA), under 5 U.S.C. 553(b)(B), finds for good cause that additional prior notice and additional opportunity for public comment is unnecessary. Because of the need to implement an inshore and offshore closure for the month of February in order to provide additional protection for cod, particularly GOM cod, the AA also finds under 5 U.S.C. 553(b)(B) that it would be contrary to the public interest to delay this rule in order to provide further notice and further opportunity for public comment.

Because of the need to implement an inshore and an offshore closure for the month of February in order to provide additional protection for cod, particularly GOM cod, the AA finds that under 5 U.S.C. 553(d)(3), there is good cause to waive part of the 30-day delay in effectiveness of this regulation. Recent information contained in the SAW 27 Advisory Report indicates that GOM cod is in very poor condition and is approaching a collapsed state. Scientific advice for this stock is to immediately reduce fishing mortality to levels approaching zero. Upon hearing this at its August 1998 meeting, the Council considered emergency action but determined that this issue would best be addressed through the public framework process, i.e., the annual framework action (Framework 27), and through an additional framework action (Framework 26), as a way to provide protection before the start of the new May 1, 1999, fishing year. Given the record low recruitment exhibited by this stock, protection of the GOM cod spawning stock biomass at a time when they aggregate to spawn is necessary to help prevent a stock collapse.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Consequently, no regulatory flexibility analysis has been prepared.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 11, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraphs (a)(52), (a)(101), and (a)(104) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(52) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(f)(1) through (i)(1), and § 648.81(n)(1) and (o)(1) during the time period specified, except as provided in § 648.81(d), (f)(2), (g)(2), (h)(2), (i)(2), (n)(2), and (o)(2).

* * * * *

(101) Enter, fail to remove gear from, or be in the areas described in § 648.81(f)(1) through (i)(1), and in § 648.81(n)(1) and (o)(1) during the time period specified, except as provided in § 648.81(d), (f)(2), (g)(2), (h)(2), (i)(2), (n)(2), and (o)(2).

* * * * *

(104) Fish for, harvest, possess, or land regulated multispecies when fishing in the closed areas specified in § 648.81(a), (b), (c), (f), (g), (h), (i), (n), and (o), unless otherwise specified in § 648.81(c)(2)(iii), (f)(2)(i) and (f)(2)(iii).

* * * * *

3. In § 648.80, paragraphs (a)(8)(iii), and (a)(10)(i)(C) are revised to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(8) * * *

(iii) The portion of Small Mesh Area 2 that is south of 43°00.0′ N. lat. shall be closed to all fishing during the period April 1 through April 30 to coincide with the April 1999 Closure Area specified in § 648.81(o)(1)(iii) and, for years beyond 1999, the Inshore Closure Area II specified in § 648.81(g)(1)(ii). Therefore, during the April 1 through April 30 time period, Small Mesh Area 2 is defined by straight lines connecting the following points in the order stated:

SMALL MESH AREA 2

[April 1–April 30]

Point	N. lat.	W. long.
SM18	43°00.0′	69°41.6′
SM14	43°10.1′	69°43.3′
SM13	43°05.6′	69°55′
SM19	43°00.0′	69°55′
SM18	43°00.0′	69°41.6′

* * * * *

(10) * * *

(i) * * *

(C) The exemption does not apply to areas closed to meet the GOM closure fishery mortality reduction targets as specified in § 648.81(f), (g), (h), (i), and (o).

* * * * *

4. In § 648.81, paragraphs (d) and (g)(1) are revised and paragraph (o) is added to read as follows:

§ 648.81 Closed areas.

* * * * *

(d) *Transiting.* Vessels may transit Closed Area I, the Nantucket Lightship Closed Area, the NE Closure Area, the GOM Inshore Closure Areas, the Cashes Ledge Closure Area, the Western GOM Closure Area, and the Spring 1999 Closure Areas, as defined in paragraphs (a)(1), (c)(1), (f)(1), (g)(1), (h)(1), (i)(1), and (o)(1), respectively, of this section, provided that their gear is stowed in accordance with the provisions of paragraph (e) of this section.

* * * * *

(g) * * * (1) Unless otherwise specified under paragraph (o) of this section, from May 1, 1998, through April 30, 2001, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the GOM Inshore Closure Areas I through IV, as described in paragraphs (g)(1)(i) through (iv) of this section, for the times specified in those paragraphs, except as specified in paragraphs (d) and (g)(2) of this section (a chart depicting these areas is available from the Regional Administrator upon request (see Table 1 to § 600.502)).

* * * * *

(o) *Spring 1999 Closure Areas.* (1) For the calendar year 1999, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the Spring 1999 Closure Areas, as described in paragraphs (o)(1)(i), (ii), and (iii) of this section, for the times specified in those paragraphs, except as specified in paragraphs (d) and (o)(2) of this section. A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502).

(i) *February-Inshore 1999 Closure Area.* From February 1, 1999, through February 28, 1999, the restrictions specified in paragraph (o)(1) of this section apply to the February-Inshore 1999 Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

FEBRUARY-INSHORE 1999 CLOSURE AREA

[February 1–February 28, 1999]

Point	N. Lat.	W. Long.
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM4	42°00′	70°00′
GM5	42°30′	70°00′
GM6	42°30′	(1)

[1] Massachusetts shoreline.
[2] Cape Cod shoreline on Cape Cod Bay.
[3] Cape Cod shoreline on the Atlantic Ocean.

(ii) *February-Offshore 1999 Closure Area.* From February 1, 1999, through February 28, 1999, the restrictions specified in paragraph (o)(1) of this section apply to the February-Offshore 1999 Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

FEBRUARY 1999 CLOSURE AREA—OFFSHORE

[February 1–February 28, 1999]

Point	N. Lat.	W. Long.
GM18	42°00′	67°30′
GM19	42°00′	68°00′
GM20	42°30′	68°00′
GM21	42°30′	67°30′
GM18	42°00′	67°30′

(iii) *April 1999 Closure Area.* From April 1, 1999, through April 30, 1999, the restrictions specified in paragraph (o)(1) of this section apply to the April 1999 Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

APRIL 1999 CLOSURE AREA

[April 1–April 30, 1999]

Point	N. Lat.	W. Long.
GM1	42°00′	(1)
GM2	42°00′	(2)

APRIL 1999 CLOSURE AREA—Continued

[April 1–April 30, 1999]

Point	N. Lat.	W. Long.
GM3	42°00′	([3])
GM22	42°00′	69°30′
GM7	42°30′	69°30′
GM14	42°30′	69°00′

APRIL 1999 CLOSURE AREA—Continued

[April 1–April 30, 1999]

Point	N. Lat.	W. Long.
GM17	43°00′	69°00′
GM9	43°00′	([4])

[1] Massachusetts shoreline.
[2] Cape Cod shoreline on Cape Cod Bay.
[3] Cape Cod shoreline on the Atlantic Ocean.
[4] New Hampshire shoreline.

(2) Paragraph (o)(1) of this section does not apply to persons on fishing vessels or to fishing vessels that meet the criteria in paragraph (f)(2)(i), (ii), or (iii) of this section.

[FR Doc. 99–1000 Filed 1–12–99; 3:29 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 64, No. 10
Friday, January 15, 1999

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 71

[Airspace Docket No. 98–AGL–62]

Proposed Modification of Class D Airspace and Class E Airspace and Establishment of Class E Airspace; Kenosha, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class D airspace and Class E airspace and establish Class E airspace at Kenosha, WI. This action would amend the effective hours of the Class D surface area and the associated Class E airspace to coincide with the airport traffic control tower (ATCT). This action would also establish a Class E surface area when the ATCT is closed. The purpose of these actions is to clarify when two-way radio communication with the ATCT is required and to provide adequate controlled airspace for instrument approach procedures when the tower is closed.

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–62, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

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–AGL–62.'' 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, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, 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 Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. 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 is considering an amendment to 14 CFR part 71 to modify Class D and associated Class E airspace at Kenosha, WI, by amending the effective hours to coincide with the ATCT hours of operation, and to establish a Class E surface area during those times the ATCT is closed. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace designations are published in paragraph 5000, Class E airspace areas designated as an extension to a Class D surface area are published in paragraph 6004, and Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AGL WI D Kenosha, WI [Revised]

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of the Kenosha Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AGL WI E4 Kenosha, WI [Revised]

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)

Kenosha VOR
(Lat. 42°35′57″ N., long. 87°55′54″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Kenosha VOR 077° radial extending from the 4.1-mile radius of the Kenosha Regional Airport to 7.0 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

AGL WI E2 Kenosha, WI [New]

Kenosha Regional Airport, WI
(Lat. 42°35′45″ N., long. 87°55′40″ W.)

Kenosha VOR
(Lat. 42°35′57″ N., long. 87°55′54″ W.)

Within a 4.1-mile radius of the Kenosha Regional Airport, and that airspace extending upward from the surface within 2.4 miles each side of the Kenosha VOR 077° radial extending from the 4.1-mile radius of the Kenosha Regional Airport to 7.0 miles northeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois, on December 14, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 99–734 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–115433–98]

RIN 1545–AW81

Timely Mailing Treated as Timely Filing/Electronic Postmark

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; and, withdrawal of previous notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to timely mailing treated as timely filing and paying under section 7502. The proposed regulations generally reflect changes to the law made since 1960. The proposed regulations affect taxpayers that file documents or make payments or deposits. This document also withdraws a previous notice of proposed rulemaking published in the **Federal Register** of December 11, 1979.

DATES: Written comments and requests for a public hearing must be received by April 15, 1999. The notice of proposed rulemaking published at 44 FR 71430, December 11, 1979, is withdrawn as of January 15, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–115433–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–115433–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Michael Slaughter, (202) 622–7180; concerning the regulations, Charles A. Hall, (202) 622–4940 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR part 301) under section 7502 relating to timely mailing treated as timely filing and paying. As originally enacted in the Internal Revenue Code of 1954, Public Law 591, ch. 736 (68A Stat. 895 (1954)), section 7502 provided that if any claim, statement, or other document is delivered to the appropriate agency, officer, or office after the filing date, the date of the United States postmark will be deemed to be the date of delivery if the postmark date is on or before the filing due date. In the case of registered mail, section 7502 provided that the registration will be prima facie evidence of delivery and the date of registration will be deemed the postmark date. At the time, section 7502 did not apply to the mailing of tax returns or payments.

The Technical Amendments Act of 1958, Public Law 85–866 (72 Stat. 1665 (1958)), amended section 7502 by authorizing the Secretary to provide by regulations the extent to which the provisions with respect to prima facie evidence of delivery and the postmark date will apply to certified mail.

Section 5(a) of the Act of November 2, 1966, Public Law 89–713 (80 Stat. 1110 (1966)), amended section 7502 to apply the timely mailing rules to returns and the payment of taxes. Section 106(a) of the Revenue and Expenditure Control Act of 1968, Public Law 90–364 (82 Stat. 266 (1968)), extended these rules to the mailing of deposits of tax. The Deficit Reduction Act of 1984, Public Law 98–369 (98 Stat. 695 (1984)), limited the timely mailing rules to deposits of less than $20,000 in the case of any person who is required to deposit more than once a month.

Minor changes were also made to section 7502 by the Tax Reform Act of 1976, Public Law 94–455 (90 Stat. 1831 and 1834 (1976)), the Act of October 28, 1977, Public Law 95–147 (91 Stat. 1228 (1977)), and the Tax Reform Act of 1986,

Public Law 99–514 (100 Stat. 2833 (1986)).

The existing regulations (TD 6232) under section 7502 were last amended on October 25, 1960 (25 FR 10247) to implement changes made by the Technical Amendments Act of 1958. The regulations provide that the prima facie evidence of delivery and postmark date rules apply to certified mail.

A notice of proposed rulemaking (REG–209351–71, formerly LR–1406) was published on December 11, 1979 (44 FR 71430) to implement changes made by the Act of November 2, 1966, the Revenue and Expenditure Control Act of 1968, the Tax Reform Act of 1976, and the Act of October 28, 1977. The proposed regulations would have conformed the existing regulations to these changes. Because the proposed changes are incorporated in this document, the earlier notice of proposed rulemaking is withdrawn.

In 1996, section 1210 of The Taxpayer Bill of Rights 2, Public Law 104–168 (110 Stat. 1474 (1996)), added section 7502(f) to provide that the term *United States mail* includes a designated delivery service and that the term *postmark* includes the date recorded or marked by a designated delivery service. The provision allows the IRS to determine whether a service of a private delivery service (PDS) is a designated delivery service. Section 7502(f) also allows the IRS to provide a rule that equates a service provided by a PDS to United States registered or certified mail. The IRS has determined that certain delivery services of four PDSs are designated for purposes of section 7502(f). However, the IRS has not yet determined that any service of a PDS is substantially equivalent to United States registered or certified mail. See Notice 98–47 (1998—37 I.R.B. 8 (September 14, 1998)).

Finally, section 7502(c)(2) was amended by section 2003(b) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 725 (1998)), to authorize the Secretary to provide the extent to which the prima facie evidence of delivery and postmark date rules apply to electronic filing.

Explanation of Provisions

These proposed regulations propose to add a new § 301.7502–1(d) to provide that the date of an electronic postmark given by an authorized electronic return transmitter will be deemed the filing date if the date of the electronic postmark is on or before the filing due date. It also permits the Commissioner to enter into an agreement with an electronic return transmitter or to prescribe in forms, instructions, or other appropriate guidance the procedures under which the electronic return transmitter is authorized to provide taxpayers with an electronic postmark to acknowledge the date and time that the electronic return transmitter received the electronically filed document.

An electronic return transmitter is defined for purposes of the regulation the same as in the revenue procedures governing the Electronic Filing Program, currently Rev. Proc. 98–50 (1998–38 I.R.B. 8 (September 21, 1998)), and the On-Line Filing Program, currently Rev. Proc. 98–51 (1998–38 I.R.B. 20 (September 21, 1998)). An electronic postmark is a record of the date and time that an authorized electronic return transmitter receives the transmission of the taxpayer's electronically filed document on its host system.

For tax year 1998, the rules on electronic postmarks are effective for income tax returns filed through electronic return transmitters authorized to provide an electronic postmark pursuant to an agreement under the Electronic Tax Administration's Request for Agreement released on November 26, 1997. For taxable years beginning after 1998, the rules on electronic postmarks are effective for documents submitted to electronic return transmitters that are authorized to provide an electronic postmark pursuant to § 301.7502–1(d)(2).

The remainder of the changes contained in §§ 301.7502–1 and 301.7502–2 conform the regulations to the expanded scope of section 7502 as amended over the years. For instance, § 301.7502–1 provides that the timely mailing treated as timely filing rule extends to the mailing of tax returns and payments. Additionally, § 301.7502–2 provides guidance on the timely mailing of deposits.

In 1980, IRS and the Treasury Department received comments in response to the notice of proposed rulemaking. Comments have not been requested since that time. Accordingly, the public is encouraged to make comments regarding this notice of proposed rulemaking, including comments regarding whether section 7502 should apply to claims for refunds made on delinquent original income tax returns or whether the prima facie evidence of delivery rule for registered mail should be extended to services of a PDS or to electronic filing of documents.

Effect on Other Documents

The notice of proposed rulemaking published in the **Federal Register** for December 11, 1979 (REG–209351–71, formerly LR–1406, 44 FR 71430) is withdrawn as of January 15, 1999.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting information. The principal author of these regulations is Charles A. Hall, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.7502–1 also issued under 26 U.S.C. 7502 * * *

Section 301.7502–2 also issued under 26 U.S.C. 7502 * * *

Par. 2. Section 301.7502–1 is revised to read as follows:

§ 301.7502–1 Timely mailing of documents and payments treated as timely filing and paying.

(a) *General rule.* Section 7502 provides that, if the requirements of that section are met, a document or payment (within the meaning of paragraph (b) of this section) is deemed to be filed or paid on the date of the postmark stamped on the envelope or other appropriate wrapper (envelope) in which the document or payment was mailed. Thus, if the envelope that contains the document or payment has a timely postmark, the document or payment is considered timely filed or paid even if it is received after the last date, or the last day of the period, prescribed for filing the document or making the payment. However, if a document or payment is not considered timely filed or timely paid under section 7502, the document or payment is not deemed to be filed or paid on the date of the postmark stamped on the envelope in which the document or payment was mailed. Thus, section 7502 does not apply to determine the period of time during which there is a failure to file a return or pay a tax for purposes of computing the penalties and additions to tax imposed by section 6651. Except as provided in section 7502(e) and § 301.7502–2, relating to the timely mailing of deposits, and paragraph (d) of this section, relating to electronically filed documents, section 7502 is applicable only to those documents or payments as defined in paragraph (b) of this section and only if the document or payment is mailed in accordance with paragraph (c) of this section and is delivered in accordance with paragraph (e) of this section.

(b) *Definitions*—(1) *Document defined.* (i) The term *document,* as used in this section, means any return, claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws, except as provided in paragraph (b)(1)(ii), (iii), or (iv) of this section.

(ii) The term does not include returns, claims, statements, or other documents that are required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than mailing.

(iii) The term does not include any document filed in any court other than the Tax Court, but the term does include any document filed with the Tax Court, including a petition for redetermination of a deficiency and a petition for review of a decision of the Tax Court.

(iv) The term does not include any document that is required to be filed with a bank or other depositary under section 6302. However, see § 301.7502–2 for special rules relating to the timeliness of deposits and documents required to be filed with deposits.

(2) *Payment defined.* (i) The term *payment,* as used in this section, means any payment required to be made within a prescribed period or on or before a prescribed date under the authority of any provision of the internal revenue laws, except as provided in paragraph (b)(2)(ii), (iii), (iv), or (v) of this section.

(ii) The term does not include any payment that is required under any provision of the internal revenue laws or the regulations thereunder to be delivered by any method other than mailing. See, for example, section 6302(h) and the regulations thereunder regarding electronic funds transfer.

(iii) The term does not include any payment, whether it is made in the form of currency or other medium of payment, unless it is actually received and accounted for. For example, if a check is used as the form of payment, this section does not apply unless the check is honored upon presentation.

(iv) The term does not include any payment to any court other than the Tax Court.

(v) The term does not include any deposit that is required to be made with a bank or other depositary under section 6302. However, see § 301.7502–2 for rules relating to the timeliness of deposits.

(3) *Last date or last date prescribed.* As used in this section, the term *the last date, or the last day of the period, prescribed for filing the document or making the payment* includes any extension of time granted for that action. When the last date, or the last day of the period, prescribed for filing the document or making the payment falls on a Saturday, Sunday or legal holiday, section 7503 applies. Therefore, in applying the rules of this paragraph (b)(3), the next succeeding day that is not a Saturday, Sunday, or legal holiday is treated as the last date, or the last day of the period, prescribed for filing the document or making the payment.

(c) *Mailing requirements*—(1) *In general.* Section 7502 does not apply unless the document or payment is mailed in accordance with the following requirements:

(i) *Envelope and address.* The document or payment must be contained in an envelope, properly addressed to the agency, officer, or office with which the document is required to be filed or to which the payment is required to be made.

(ii) *Timely deposited in U.S. mail.* The document or payment must be deposited within the prescribed time in the mail in the United States with sufficient postage prepaid. For this purpose, a document or payment is deposited in the mail in the United States when it is deposited with the domestic mail service of the U.S. Postal Service. The domestic mail service of the U.S. Postal Service, as defined by the Domestic Mail Manual as incorporated by reference in the postal regulations, includes mail transmitted within, among, and between the United States of America, its territories and possessions, and Army post offices (APO), fleet post offices (FPO), and the United Nations, NY. (See Domestic Mail Manual, section G011.2.1, as incorporated by reference in 39 CFR 111.1.) Section 7502 does not apply to any document or payment that is deposited with the mail service of any other country.

(iii) *Postmark*—(A) *U.S. Postal Service postmark.* If the postmark on the envelope is made by the U.S. Postal Service, the postmark must bear a date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment. If the postmark does not bear a date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment, the document or payment is considered not to be timely filed or paid, regardless of when the document or payment is deposited in the mail. Accordingly, the sender who relies upon the applicability of section 7502 assumes the risk that the postmark will bear a date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment. See, however, paragraph (c)(2) of this section with respect to the use of registered mail or certified mail to avoid this risk. If the postmark on the envelope is made by the U.S. Postal Service but is not legible, the person who is required to file the document or make the payment has the burden of proving the date that the postmark was made. Furthermore, if the envelope that contains a document or payment has a timely postmark made by the U.S. Postal Service but it is received after the time when a document or payment postmarked and mailed at that

time would ordinarily be received, the sender may be required to prove that it was timely mailed.

(B) *Postmark made by other than U.S. Postal Service*—(*1*) *In general.* If the postmark on the envelope is made other than by the U.S. Postal Service—

(*i*) The postmark so made must bear a legible date on or before the last date, or the last day of the period, prescribed for filing the document or making the payment; and

(*ii*) The document or payment must be received by the agency, officer, or office with which it is required to be filed not later than the time when a document or payment contained in an envelope that is properly addressed, mailed, and sent by the same class of mail would ordinarily be received if it were postmarked at the same point of origin by the U.S. Postal Service on the last date, or the last day of the period, prescribed for filing the document or making the payment.

(*2*) *Document or payment received late.* If the document or payment is received after the time when a document or payment so mailed and so postmarked by the U.S. Postal Service would ordinarily be received, the document or payment is treated as having been received at the time when a document or payment so mailed and so postmarked would ordinarily be received if the person who is required to file the document or make the payment establishes—

(*i*) That it was actually deposited in the U.S. mail before the last collection of the mail from the place of deposit which was postmarked (except for the metered mail) by the U.S. Postal Service on or before the last date, or the last day of the period, prescribed for filing the document or making the payment;

(*ii*) That the delay in receiving the document or payment was due to a delay in the transmission of the U.S. mail; and

(*iii*) The cause of the delay.

(*3*) *U.S. and non-U.S. postmarks.* If the envelope has a postmark made by the U.S. Postal Service in addition to the postmark not so made, the postmark that was not made by the U.S. Postal Service is disregarded, and whether the envelope was mailed in accordance with this paragraph (c)(1)(iii)(B) will be determined solely by applying the rule of paragraph (c)(1)(iii)(A) of this section.

(2) *Registered or certified mail.* If the document or payment is sent by U.S. registered mail, the date of registration of the document or payment is treated as the postmark date. If the document or payment is sent by U.S. certified mail and the sender's receipt is postmarked by the postal employee to whom the document or payment is presented, the date of the U.S. postmark on the receipt is treated as the postmark date of the document or payment. Accordingly, the risk that the document or payment will not be postmarked on the day that it is deposited in the mail may be eliminated by the use of registered or certified mail.

(d) *Electronically filed documents*—(1) *In general.* A document filed electronically with an electronic return transmitter (as defined in paragraph (d)(3)(i) of this section and authorized pursuant to paragraph (d)(2) of this section) in the manner and time prescribed by the Commissioner is deemed to be filed on the date of the electronic postmark (as defined in paragraph (d)(3)(ii) of this section) given by the authorized electronic return transmitter. Thus, if the electronic postmark is timely, the document is considered filed timely although it is received by the agency, officer, or office after the last date, or the last day of the period, prescribed for filing such document.

(2) *Authorized electronic return transmitters.* The Commissioner may enter into an agreement with an electronic return transmitter or prescribe in forms, instructions, or other appropriate guidance the procedures under which the electronic return transmitter is authorized to provide taxpayers with an electronic postmark to acknowledge the date and time that the electronic return transmitter received the electronically filed document.

(3) *Definitions*—(i) *Electronic return transmitter.* For purposes of this paragraph (d), the term *electronic return transmitter* has the same meaning as contained in section 3.02(4) of Rev. Proc. 98–50 (1998–38 I.R.B. 8 (September 21, 1998)) and section 3.02(3) of Rev. Proc. 98–51 (1998–38 I.R.B. 20 (September 21, 1998)) (See § 601.601(d)(2) of this chapter.) or in procedures subsequently prescribed by the Commissioner.

(ii) *Electronic postmark.* For purposes of this paragraph (d), the term *electronic postmark* means a record of the date and time (in a particular time zone) that an authorized electronic return transmitter receives the transmission of a taxpayer's electronically filed document on its host system. However, if the taxpayer and the electronic return transmitter are located in different time zones, it is the time in the taxpayer's time zone that controls the timeliness of the electronically filed document.

(e) *Delivery.* (1) Except as provided in section 7502(f) and paragraph (d) of this section, section 7502 is not applicable unless the document or payment is delivered by U.S. mail to the agency, officer, or office with which the document is required to be filed or to which payment is required to be made. However, in the case of a document (but not a payment) sent by registered or certified mail, proof that the document was properly registered or that a postmarked certified mail sender's receipt was properly issued and that the envelope was properly addressed to the agency, officer, or office constitutes prima facie evidence that the document was delivered to the agency, officer, or office.

(2) Section 7502 is applicable only when the document or payment is delivered after the last date, or last day of the period, prescribed for filing the document or making the payment. Thus, section 7502 is applicable when a claim for credit or refund is delivered after the last day of the period specified in section 6511 or in any other corresponding provision of law relating to the limit on the amount of credit or refund that is allowable. For example, taxpayer A was required to file an income tax return for 1993 on or before April 15, 1994, but A secured an extension until August 15, 1994, to file such return. A filed the return on August 15, 1994, but no tax was paid at that time because the tax liability disclosed by the return had been completely satisfied by the income tax that had been withheld on A's wages. On August 14, 1997, A mailed in accordance with the requirements of this section a claim for refund of a portion of this 1993 tax. The envelope containing the claim was postmarked on August 14, 1997, but it was not delivered to the Service Center until August 18, 1997. Under section 6511, A's claim for refund is timely if filed within three years from August 15, 1994. Thus, since A's claim for refund was mailed in accordance with the requirements of this section and was delivered after the last day of the period specified in section 6511, section 7502 is applicable and the claim is deemed to have been filed on August 14, 1997.

(f) *Effective date*—(1) *In general.* This section applies to any payment or document mailed and delivered in accordance with the requirements of this section in an envelope bearing a postmark dated after January 15, 1999.

(2) *Electronically filed documents*—(i) *For taxable year 1998.* For taxable year 1998, this section only applies to electronically filed income tax returns transmitted to an electronic return transmitter that was authorized to provide an electronic postmark pursuant to an agreement entered into in response to submissions received in

reply to the Electronic Tax Administration's Request for Agreement released on November 26, 1997.

(ii) *For taxable years after 1998.* For taxable years after 1998, this section applies to any electronically filed return, claim, statement, or other document transmitted to an electronic return transmitter that is authorized to provide an electronic postmark pursuant to paragraph (d)(2) of this section.

Par. 3. Section 301.7502–2 is added to read as follows:

§ 301.7502–2 Timely mailing of deposits.

(a) *General rule*–(1) *Two day rule.* Section 7502(e) provides that, if the requirements of that section are met, a deposit is deemed to be received on the date the deposit was mailed even though it is received after the date prescribed for making the deposit. The requirements of the section are met if the person required to make the deposit establishes that the date of mailing was on or before the second day preceding the date prescribed for making the deposit. If the date of mailing was not established to be on or before the second day preceding the date prescribed for making the deposit, the deposit will not be considered timely received unless it is actually received on or before the date prescribed for making the deposit. Section 7502(e) only applies to a deposit mailed to the bank, trust company, domestic building and loan association, or credit union authorized to receive that deposit. Thus, section 7502(e) does not apply to any remittance mailed to an internal revenue service center.

(2) *Deposits of $20,000 or more.* Paragraph (a)(1) of this section does not apply with respect to any deposit of $20,000 or more by any person required to deposit any tax more than once a month. Any such deposit must be made by the due date for such deposit, regardless of the method of delivery.

(b) *Deposit defined.* The term *deposit,* as used in this section, means any deposit of tax required to be made on or before a prescribed date pursuant to regulations prescribed under section 6302. For information regarding the making of deposits by electronic funds transfer, see section 6302(h) and the regulations thereunder.

(c) *Mailing requirements*—(1) *In general.* Section 7502(e) does not apply unless the deposit is mailed in accordance with the requirements of paragraph (c)(2) of this section.

(2) *Requirements.* The date of mailing must fall on or before the second day preceding the prescribed date for making a deposit (including any extension of time granted for making the deposit). For example, if a deposit is due on or before January 15, the date of mailing must fall on or before January 13. The deposit must be contained in an envelope or other appropriate wrapper approved for use in the mails by the U.S. Postal Service, properly addressed to the bank, trust company, domestic building and loan association, or credit union authorized to receive the deposit. The deposit must be deposited with sufficient postage prepaid on or before the second day in the mail in the United States within the meaning of § 301.7502–1.

(3) *Registered and certified mail.* The provisions of § 301.7502–1(c)(2) apply to a deposit sent by U.S. registered mail or U.S. certified mail as if the deposit were a payment, except that the date of registration or the date of the postmark on the sender's receipt is considered the date of mailing of such deposit.

(d) *Delivery.* Section 7502(e) does not apply unless a deposit is actually delivered by U.S. mail to the authorized financial institution with which the deposit is required to be made and is accepted by that financial institution. For rules relating to the acceptance of deposits by authorized financial institutions (see 31 CFR 203.18). The fact that a deposit is sent by U.S. registered or U.S. certified mail does not constitute prima facie evidence that the deposit was delivered to the financial institution authorized to receive the deposit. Section 7502(e) does not apply unless the deposit is delivered after the date prescribed for making the deposit.

(e) *Effective date.* This section applies to all deposits required to be made after January 15, 1999.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–701 Filed 1–14–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[IL161–1b; FRL–6216–5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a requested source specific revision to the Illinois State Implementation Plan (SIP) for ozone in the form of a variance from the otherwise applicable SIP requirements for DB Hess Company, Incorporated's lithographic printing plant which is located in Woodstock, in McHenry County, Illinois. The variance took effect on the State level on March 20, 1997 and expires on March 30, 1999. The State's plan submittal request was made on September 3, 1997 pursuant to requirements found in the Clean Air Act (CAA). In the final rules section of this **Federal Register**, the USEPA is approving the State's request as a direct final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless USEPA receives relevant adverse written comment. Should USEPA receive such comment, it will publish a timely withdrawal informing the public that this direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on the proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document, and no further action will be taken on this proposed rule. USEPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before February 16, 1999.

ADDRESSES: Written comments may be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below.

Copies of the materials submitted by the Illinois Environmental Protection Agency (IEPA) may be examined during normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312) 886–6036.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: December 3, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99–1023 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL176–1b; FRL–6215–2]

Approval and Promulgation of State Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the September 16, 1998, Illinois State Implementation Plan (SIP) revision request containing amendments to Volatile Organic Material (VOM) rules affecting Illinois' ozone attainment area (the area of the State not including the Chicago and Metro-East ozone nonattainment areas), as a requested revision to the ozone State Implementation Plan (SIP). In the final rules section of this **Federal Register**, the EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this action. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before February 16, 1999.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: December 21, 1998.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99–1019 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6220–8]

National Emission Standards for Hazardous Air Pollutants: Natural Gas Transmission and Storage

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposal; reopening of public comment period and notice of public hearing.

SUMMARY: On February 6, 1998 (63 FR 6288), the EPA proposed standards (the proposal or proposed standards) to limit emissions of hazardous air pollutants (HAP) from existing and new natural gas transmission and storage facilities under section 112 of the Clean Air Act as amended in 1990 (Act). The public comment period on the proposed standards ended April 7, 1998. This action announces the availability of supplemental information, the reopening of the public comment period on the supplemental information, and the notice of public hearing.

During the public comment period, the EPA received comments that the data collected by the EPA to support development of the proposed rule did not adequately characterize the HAP emission sources and controls in the natural gas transmission and storage source category. The EPA agreed to solicit and consider additional data pertaining to the development of maximum available control technology (MACT) standards for the natural gas transmission and storage source category. The EPA plans to consider comments received on this action, along with comments received on the proposal, and take final action by May 15, 1999.

DATES: *Comments.* Comments must be received on or before February 16, 1999. For information on submitting electronic comments see the **SUPPLEMENTARY INFORMATION** section of this document. If a public hearing is held, comments referring to new information resulting from the public hearing must be received by March 1, 1999.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by January 22, 1999, a public hearing will be held on February 1, 1999, beginning at 9:30 a.m. Persons wishing to present oral testimony must contact the EPA by January 22, 1999. For information on requesting a public hearing see the **ADDRESSES** section of this notice. For detailed information on the public hearing see the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC–6102), Attention: Docket No. A–94–04, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket is located at this address in Room M–1500, Waterside Mall (ground floor). The EPA requests that a separate copy of comments also be sent to Greg Nizich, Waste and Chemical Processes Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone: (919) 541–3078; fax: (919) 541–0246 or electronically at: nizich.greg@epa.gov. Comments and data may be submitted electronically by following the instructions listed in **SUPPLEMENTARY INFORMATION.** No confidential business information (CBI) should be submitted electronically.

Public Hearing: Persons interested in speaking at a hearing should notify Ms. JoLynn Collins, telephone (919) 541–5671, Waste and Chemical Processes Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. Persons interested in attending the hearing should contact Ms. Collins to verify that a hearing will occur.

Docket. A docket, No. A–94–04, containing information considered by the EPA in the development of the proposed standards, public comments received on the proposal, and the information discussed in today's notice, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday (except Federal holidays), at the Air and Radiation Docket and Information Center. See the above address. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning today's action,

contact Mr. Greg Nizich, Waste and Chemical Processes Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone: (919) 541–3078; fax (919) 541–0246; or electronically at: nizich.greg@epa.gov.

SUPPLEMENTARY INFORMATION: *Public Hearing.* A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the supplemental data for the natural gas transmission and storage proposed standards. If a public hearing is requested and held, the EPA may ask clarifying questions regarding the oral presentation but will not respond to the presentation or comments. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held.

Electronic Comments. Electronic comments can be sent directly to the EPA at: A-and-R-Docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 and 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–94–04. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The information presented in this notice is organized as follows:

I. Background
II. Collection of Additional Information
III. MACT Floor for Existing Sources
IV. MACT Floor for New Sources
V. Throughput and Benzene Emissions Cutoffs
VI. Solicitation of Comments
VII. Administrative Requirements
A. Docket
B. Public Hearing
C. Paperwork Reduction Act
D. Executive Order 12866: A Significant Regulatory Action Determination
E. Regulatory Flexibility Act
F. Unfunded Mandates Reform Act
G. Executive Order 12875: Enhancing the Intergovernmental Partnership
H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks.
I. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
J. National Technology Transfer and Advancement Act

I. Background

On February 6, 1998 (63 FR 6288), the EPA proposed standards to limit emissions of HAP from existing and new natural gas transmission and storage facilities under the authority of section 112 of the Act. These standards would be codified under 40 CFR part 63, subpart HHH. The EPA proposed that process vents on existing or new glycol dehydration units that are located at major HAP sources, must be controlled for HAP unless: (1) The actual annual average flowrate of natural gas to the unit is less than 85 thousand cubic meters per day (m^3/day) (3.0 million standard cubic feet per day (MMSCF/D)), or (2) if actual annual benzene emissions from the unit are less than 0.9 megagram per year (Mg/yr) (1 ton per year (tpy)). Glycol dehydration units required to use air emission controls would also be required under the proposed standard to reduce HAP emissions by 95 percent or more or to reduce HAP emissions to an outlet concentration of 20 parts per million by volume (ppmv) or less for combustion devices. In addition, pollution prevention measures, such as process modifications that reduce the amount of HAP emissions generated, could be used, alone or in combination with a control device, provided they are demonstrated to achieve a HAP emission reduction of 95 percent or greater.

The proposed standards were developed under the authority of section 112(d) of the Act, which requires the EPA to establish standards to reflect the maximum degree of reduction in HAP emissions. The EPA is required to establish standards that are no less stringent than the level of control defined under section 112(d)(3), referred to as the MACT floor. Under section 112 of the Act, the minimum level (the floor) at which standards may be set, for existing sources, is the ''average emission limitation achieved by the best performing 12 percent of the existing sources'' (section 112(d)(3) of the Act). The EPA collects and reviews available information on emission limitations achieved by each of: (1) The best performing 12 percent of existing sources in a category consisting of more than 30 sources, or (2) the best performing five sources in a category consisting of 30 sources or less. The Agency then determines an average of those limitations. ''Average'' is interpreted by the Agency to mean a measure of central tendency such as the arithmetic mean, median, or mode or some other central tendency within the available data.

The EPA collected information to support the proposal through: (1) A questionnaire developed under the authority of section 114 of the Clean Air Act (CAA) that was distributed to one company with 31 glycol dehydration units in the natural gas transmission and storage source category, and (2) a search of the available literature. Based on the available information collected, the EPA estimated that five facilities in the natural gas transmission and storage source category would be impacted by the proposed rule. Further, the Agency concluded at that time that the floor for existing and new sources in the natural gas transmission and storage source category was a 95-percent HAP emission reduction.

During the public comment period, which closed on April 7, 1998, the EPA received several comment letters stating that the EPA did not collect information sufficient to properly characterize the natural gas transmission and storage source category for the purpose of developing MACT standards. In particular, the commenters were concerned that the proposed control level of 95 percent and the throughput level cutoff of 85 thousand m^3/day (3.0 MMSCF/D) were not appropriate for glycol dehydration units in the natural gas transmission and storage source category. No comments were received requesting a change in the 0.9-Mg/yr (1-tpy) benzene emissions cutoff. The commenters requested that the EPA collect additional information to characterize HAP emissions and controls in the industry properly.

II. Collection of Additional Information

The EPA addressed these concerns by collecting additional information on glycol dehydration units in the natural gas transmission and storage source category. The EPA conducted site visits to five natural gas transmission and storage facilities to gain additional first-hand knowledge of the processes and operations at existing facilities in this source category. The EPA also met with stakeholders from the natural gas transmission and storage industry to understand their concerns. The EPA developed a questionnaire for distribution to selected natural gas transmission and storage companies under the authority of section 114 of the CAA. In the questionnaire, the EPA requested data on the processes, operations, and control technologies in use at existing natural gas transmission and storage facilities and relevant to the development of HAP emissions standards.

Through the questionnaire and site visits, the EPA collected additional information on approximately 81 facilities in the natural gas transmission and storage source category. The EPA is considering this new information, along

with previously collected information on the natural gas transmission and storage source category, to develop a MACT floor for process vents on glycol dehydration units located at existing and new facilities in this source category. The EPA is also considering the development of appropriate natural gas throughput and benzene emissions threshold levels for which sources below these cutoffs would not be subject to the control requirements.

The purpose of this notice is to announce the availability of, and to discuss the consideration of, the additional information on the natural gas transmission and storage source category collected by the EPA since proposal. The additional data being announced today includes the following items located in Air Docket A–94–04: (1) Completed responses to the EPA's section 114 survey questionnaire, items IV–G–24, and IV–G–26 through IV–G–32; (2) site visit information, items IV–G–21, IV–G–22, and IV–G–25; and (3) summary of the meeting with representatives of the Interstate Natural Gas Association of America, the Gas Research Institute, and industry, item IV–E–02. The EPA has also prepared analyses of these data, items *MACT floor memo docket number* and *throughput and benzene emissions cutoff memo docket number.*

III. MACT Floor for Existing Sources

According to the information collected from 112 facilities through the section 114 questionnaire, site visits, and data previously collected during the development of the proposed standards, 69 glycol dehydration units are controlled. Fifty-nine of these units utilize combustion as the control technology for process vents on glycol dehydration units. Of these, 51 utilize flares, seven utilize enclosed combustion devices, and one uses an in-stack flare system. Six units utilize a combination of condensation and combustion to control glycol dehydration unit process vents and four utilize condensation.

The MACT floor analysis for the natural gas transmission and storage source category is based on information available on the top 14 performing glycol dehydration units, which corresponds to 12 percent of 112 glycol dehydration units.

The EPA compared the data on the average emission limitation achieved by the 14 best performing units to the proposed control level of 95 percent for process vents on glycol dehydration units at existing and new natural gas transmission and storage facilities. The available information indicates that the best performing 12 percent of the facilities, i.e., 14 units, utilize some form of combustion and achieve an average HAP emission reduction of 98 percent. However, among all sources that apply combustion, the reported control efficiency ranged from 95 to 98 percent. The EPA has been unable to determine the technical basis for the reported differences in the control efficiencies for these combustion devices. Therefore, in order to account for the observed variability in HAP emission reduction efficiency, the EPA has selected 95 percent as the required HAP emission reduction for this source category associated with this technology. The EPA solicits comments and supporting information on the MACT floor level of 95-percent HAP emission reduction. As noted in the **ADDRESSES** section of today's notice, the docket (Docket No. A–94–04) contains the information collected from industry, as well as a more detailed analysis of these data (item *MACT floor memo docket number*).

IV. MACT Floor for New Sources

Under the proposed standards, the MACT floor for new sources was the same as the MACT floor for existing sources (i.e., 95-percent control). In the review of the new additional information, the EPA did not identify a method of control applicable to all types of new sources that would achieve a greater level of HAP emission reduction than the MACT floor for existing sources. Therefore, as with the proposal, the EPA is considering a MACT floor for new sources in the natural gas transmission and storage source category to be the same as the MACT floor for existing sources.

V. Throughput and Benzene Emissions Cutoff

In the proposal, glycol dehydration units operating at an actual annual average natural gas throughput less than 85 thousand m^3/day (3 MMSCF/D) or having benzene emissions less than 0.9 Mg/yr (1 tpy) are exempt from the control requirements. The EPA evaluated the data collected from the 112 facilities in the natural gas transmission and storage source category to determine whether there was a natural gas throughput level, or a benzene emission level for which glycol dehydration units operating below this level were not controlled.

In the new data, the Agency did not identify evidence to suggest that glycol dehydration units operating with actual annual average natural gas throughput rates less than 283 thousand m^3/day (10 MMSCF/D) or having actual benzene emissions less than 0.9 Mg/yr (1 tpy) are controlled at the MACT floor. The EPA does not believe that it would be cost effective to go beyond the floor for these glycol dehydration units.

In addition, the Agency does not have any information indicating that, there are any sources in the natural gas transmission and storage source category operating below 283 thousand m^3/day (10 MMSCF/D) or having benzene emissions less than 0.9 Mg/yr (1 tpy) that have emissions greater than the major source thresholds of 10 tpy for individual HAP or 25 tpy for any combination of HAP.

Based on the available information, the EPA is considering raising the throughput cutoff from the proposed level of 85 thousand m^3/day (3 MMSCF/D) to 283 thousand m^3/day (10 MMSCF/D) on an actual annual average basis; glycol dehydration units operating below this level would not have to apply controls. Further, the EPA believes that the 0.9-Mg/yr (1-tpy) benzene cutoff provided in the proposed standards is appropriate for glycol dehydration units in the natural gas transmission and storage source category. Therefore, no changes have been made to the benzene emissions cutoff.

VI. Solicitation of Comments

Specifically, the EPA is requesting comments and supporting information on the consideration of a 95-percent HAP emission reduction as the floor level of control for new and existing facilities in the natural gas transmission and storage source category as required under section 112 of the Act. The EPA is also requesting comments on the 283-thousand m^3/day (10-MMSCF/D) actual annual average throughput and the 0.9-Mg/yr (1-tpy) benzene emission cutoffs for the control of glycol dehydration units in this source category.

VII. Administrative Requirements

A. Docket

The docket for this rulemaking is A–94–04. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The principal purposes of the docket are (1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act). This docket contains copies of the regulatory text, BID, BID references, and technical memoranda documenting the

information considered by the EPA in the development of the proposed rule. The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the **ADDRESSES** section of this notice.

B. Public Hearing

A public hearing will be held, if requested, to discuss this supplemental information in accordance with section 307(d)(5) of the Act. If a public hearing is held, the EPA will ask clarifying questions during the oral presentations but will not respond to the presentations or comments. To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement (see **DATES** and **ADDRESSES**). Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held.

C. Paperwork Reduction Act

The information requirements of the proposed NESHAP were submitted for approval to the Office of Management and Budget (OMB) on May 15, 1997 under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 1789.01), and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW., Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

Today's notice will have no impact on the information collection burden estimates made previously. This notice announces the availability of additional data and presents the EPA's consideration of these new data and therefore does not mandate any new requirements. Consequently, the ICR has not been revised.

D. Executive Order 12866: A Significant Regulatory Action Determination

Under Executive Order 12866 (58 FR 5173 (October 4, 1993)), the EPA must determine whether the proposed regulatory action is ''significant,'' and therefore, subject to OMB review and the requirements of the Executive Order. The order defines a ''significant'' regulatory action as one that is likely to lead to a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, public health or safety in State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that today's notice of data availability is not a ''significant'' regulatory action, since it does not establish or lead to new regulatory requirements (and therefore is not a regulatory action). Therefore, today's notice did not require OMB review.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Today's notice announces the availability of additional information and the EPA's consideration of these new data and does not establish any binding rules of general applicability.

F. Unfunded Mandates 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 EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to today's action.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide the Office of Management and Budget (OMB) a description of the extent of the EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

While the proposed rule, published on February 6, 1998, does not create mandates upon State, local, or tribal governments, the EPA involved State and local governments in its development. Because today's action is

announcing the availability of additional data and the EPA's consideration of this new data, today's action does not create a mandate upon State, local, or tribal governments.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

Today's action is not subject to Executive Order 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. The proposed rule, published on February 6, 1998, does not create mandates upon tribal governments. Because today's action announces the availability of additional data and the EPA's interpretation of that data, today's action does not create a mandate on tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their 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) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like the EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

Today's notice does not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, consideration of voluntary consensus standards is not relevant to this action.

Dated: January 7, 1999.

Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 99–1031 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MARITIME COMMISSION

46 CFR Part 520

[Docket No. 98–29]

Carrier Automated Tariff Systems

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule; Correction.

SUMMARY: This document corrects Appendix A to part 520 in the proposed rule published December 21, 1998 (63 FR 70368). The proposed rule concerned the requirements for carrier automated tariff systems in accordance with the Shipping Act of 1984, as modified by Public Law 105–258 (the Ocean Shipping Reform Act of 1988) and § 424 of Public Law 105–383 (the Coast Guard Authorization Act of 1998).

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol St., NW, Washington, DC 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: As published, the proposed rule, in error, omitted parts of Appendix A, Standard Terminology and Codes. The portions omitted contained the codes under the headings Inland Transportation Modes, Shipment Service Types, Freight Forwarder/Broker Type Codes and Tariff Type Codes. Accordingly, in the proposed rule beginning on page 70368 in the issue of December 21, 1998, make the following correction. Beginning on page 70379, Appendix A to part 520 is corrected to read as follows:

Appendix A—Standard Terminology and Codes

I. Publishing/Amendment Type Codes

Code Definition

A Increase.
C Change resulting in neither increase nor decrease in rate or charges.
E Expiration (also use ''A'' if the deletion results in the application of a higher ''cargo, n.o.s.'' or similar rate).
I New or initial matter.
K Rate or change filed by a controlled common carrier member of a conference under independent action.
M Transportation of U.S. Department of Defense cargo by American-flag common carriers.
P Addition of a port or point.
R Reduction.
S Special Case matter filed pursuant to Special Permission, Special Docket or other Commission direction, including filing of tariff data after suspension, such as for controlled carriers. Requires ''Special Case Number.''
T Terminal Rates, charges or provisions or canal tolls over which the carrier has no control.
W Withdrawal of an erroneous publication on the same publication date.
X Exemption for controlled carrier data in trades served exclusively by controlled carriers or by controlled carriers of states receiving most-favored-nation treatment.

II. Valid Unit Codes

Weight Units

Kilograms ..... KGS
1000 Kgs (Metric Ton) ..... KT
Pounds ..... LBS
Long Ton (2240 LBS) ..... LT
Short Ton (2000 LBS) ..... ST

Volume Units

Cubic Meter ..... CBM

Cubic feet ....CFT

Length Units

Centimeters ....CM
Feet ....FT
Inches ....IN
Meters ....M

Measure Board Feet

Thousand Board Feet....MBF

Distance Units

Kilometers ....KM
Miles ....MI

Rate Basis

Ad Valorem....AV
Each ....EA
Lump Sum ....LS
Measure....M
Thousand Board Feet....MBF
Per Container....PC
Weight....W
Weight/Measure....WM

Container Size Codes

Not Applicable....N/A
Less Than Load ....LTL
10FT Any Height....10X

Weight Units

Kilograms....KGS
1000 Kgs (Metric Ton) ....KT
Pounds....LBS
Long Ton (2240 LBS)....LT
Short Ton (2000 LBS)....ST

Volume Units

Cubic meter....CBM
Cubic feet ....CFT

Length Units

Centimeters ....CM
Feet ....FT
Inches ....IN
Meters ....M

Measure Board Feet

Thousand Board Feet....MBF

Distance Units

Kilometers ....KM
Miles ....MI

Rates Basis

Ad Valorem....AV
Each ....EA
Lump Sum ....LS
Measure....M
Thousand Board Feet....MBF
Per Container....PC
Weight....W
Weight/Measure....WM

Container Size Codes

Not Applicable....N/A
Less Than Loan ....LTL
10FT Any Height....10X
20FT 8′6″....20
20FT 9′0″ High Cube....20A
20FT 9′6″ High Cube 20B
20FT 8′0″....20S
20FT Any Height....20X
24FT 8′6″....24
24FT 9′0″ High Cube....24A
24FT 9′6″ High Cube 24B
24FT 8′0″....24S
24FT Any Height....24X
35FT 8′6″....35
35FT 9′0″ High Cube....35A
35FT 9′6″ High Cube 35B
35FT 8′0″....35S
35FT Any Height....35X
40FT 8′6″....40
40FT 9′0″ High Cube....40A
40FT 9′6″ High Cube 40B
40FT 8′0″....40S
40FT Any Height....40X
42FT 8′6″....42
42FT 9′0″ High Cube....42A
42FT 9′6″ High Cube 42B
42FT 8′0″....42S
42FT Any Height....42X
43FT 8′6″....43
43FT 9′0″ High Cube....43A
43FT 9′6″ High Cube 43B
43FT 8′0″....43S
43FT Any Height....43X
45FT 8′6″....45
45FT 9′0″ High Cube....45A
45FT 9′6″ High Cube 45B
45FT 8′0″....45S
45FT Any Height....45X
48FT 8′6″....48
48FT 9′0″ High Cube....48A
48FT 9′6″ High Cube 48B
48FT 8′0″....48S
48FT Any Height....48X
53FT 8′6″....53
53FT 9′0″ High Cube....53A
53FT 9′6″ High Cube 53B
53FT 8′0″....53S
53FT Any Height....53X

Container Type Codes

Not Applicable....N/A
Atomsphere Control ....AC
Collapsible Flatrack ....CF
Drop Frame....DF
Flat Bed....FB
Flat Rack ....FR
Garment Container....GC
Half-Height ....HH
Hardtop ....HT
Insulated....IN
Open Top ....OT
Dry ....PC
Platform ....PL
Reefer ....RE
Tank....TC
Top Loader ....TL
Trailer ....TR
Vehicle Racks....VR

Container Temperature Codes

Not Appl/Operating....N/A
Artificial Atmo Ctrl....AC
Chilled....CLD
Frozen....FRZ
Heated....HTD
Refrigerated ....RE
Ventilated ....VEN

Packaging Codes

Bag ....BAG
Bale ....BAL
Bar....BAR
Barrel ....BBL
Bundle....BDL
Beam ....BEM
Bing Chest ....BIC
Bin ....BIN
Bulk ....BLK
Bobbin....BOB
Box....BOX
Barge ....BRG
Basket/Hamper ....BSK
Bushel ....BUS
Box, with Inner Cntn ....BXI
Bucket ....BXT
Cabinet....CAB
Cage ....CAG
Can....CAN
Carrier ....CAR
Case ....CAS
Cntnrs of Bulk Cargo....CBC
Carboy ....CBY
Can Case ....CCS
Cheese ....CHE
Core....COR
Cradle....CRD
Crate ....CRT
Cask ....CSK
Carton ....CTN
Cylinder ....CYL
Dry Bulk....DBK
Double-length Rack ....DRK
Drum ....DRM
Double-length Skid....DSK
Double-length ....DTB
Firkin ....FIR
Flo-Bin ....FLO
Frame....FRM
Flask ....FSK
Forward Reel....FWR
Garment on Hanger....GOH
Heads of Beef....HED
Hogshead....HGH
Hopper Car....HPC
Hopper Truck ....HPT
On Hanger/Rack in bx....HRB
Half-Standard Rack ....HRK
Half-Stand. Tote Bin....HTB
Jar ....JAR
Keg ....KEG
Kit....KIT
Knockdown Rack ....KRK
Knockdown Tote Bin....KTB
Liquid Bulk ....LBK
Lifts ....LIF
Log ....LOG
Loose....LSE
Lug ....LUG
Lift Van ....LVN
Multi-roll Pak....MRP
Noil....NOL
Nested ....NST
Pail ....PAL
Packed—NOS....PCK
Pieces....PCS
Pirns....PIR
Package ....PKG
Platform ....PLF
Pipe Line ....PLN
Pallet....PLT
Private Vehicle ....POV
Pipe Rack ....PRK
Quarters of Beef....QTR
Rail (semiconductor)....RAL
Rack....RCK
Reel ....REL
Roll....ROL
Reverse Reel....RVR
Sack....SAK
Shook ....SHK
Sides of Beef....SID
Skid ....SKD
Skid, Elev, Lift Trk....SKE
Sleeve ....SLV
Spin Cylinders....SPI
Spool....SPL
Tube....TBE
Tote Bin ....TBN

Tank Car Rail ....TKR
Tank Truck ....TKT
Intermdl Trlr/Cntnr ....TLD
Tank ....TNK
Tierce ....TRC
Trunk and Chest ....TRK
Tray ....TRY
Trunk, Salesmen Samp ....TSS
Tub ....TUB
Unpacked ....UNP
Unit ....UNT
Vehicles ....VEH
Van Pack ....VPK
On Own Wheels ....WHE
Wheeled Carrier ....WLC
Wrapped ....WRP
Not Applicable ....N/A

Shipment Stowage Location Codes

Not Applicable ....N/A
On Deck ....OD
Bottom Stowage ....BS

Hazard Codes

Not Applicable ....N/A
IMD Stow Category A ....A
IMD Stow Category B ....B
IMD Stow Category C C
IMD Stow Category D ....D
IMD Stow Category E ....E
Hazardous ....HAZ
Non-Hazardous ....NHZ

Stuffing/Stripping Modes

Not Applicable ....N/A
Mechanical ....MECH
Hand Loading ....HAND

Inland Transportation Modes

Not Applicable ....N/A
Motor ....M
Rail ....R
Barge ....B
Motor/Rail ....MR
Rail/Motor ....RM
Motor/Barge ....MB
Barge/Motor ....BM
Rail/Barge ....RB
Barge/Rail ....BR

Shipment Service Types

Barge ....B
Door ....D
House ....H
Motor ....M
Ocean Port ....O
Pier ....P
Rail Yard ....R
Container Station ....S
Terminal ....T
Container Yard ....Y
Rail Siding ....U
Team Tracks X

Freight Forwarder/Broker Type Codes

Not Applicable ....N/A
Freight Forwarder ....FF
Customs House Broker ....CB
Other ....OTH

Tariff Type Codes

BL ....Bill of Lading Tariff
EI ....Equipment Interchange Agreement Tariff
ET ....Essential Terms Publication
FC ....Foreign Commodity Tariff
FR ....Foreign Rules Tariff
TM ....Terminal Tariff
SC ....Service Contracts

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–901 Filed 1–14–99; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 212, 213, 252, and 253

[DFARS Case 98–D027]

Defense Federal Acquisition Regulation Supplement; Taxpayer Identification Numbers and Commercial and Government Entity Codes

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add procedures for reporting payment information to the Internal Revenue Service (IRS); to revise the procedures for obtaining Taxpayer Identification Numbers (TINs) and Commercial and Government Entity (CAGE) codes when contractors are required to register in the Central Contractor Registration (CCR) database; and to make editorial changes.

DATES: Comments on the proposed rule should be submitted in writing to the address identified below on or before March 16, 1999, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulation Council, Attn: Ms. Sandra G. Haberlin, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil. Please cite DFARS Case 98–D027 in all correspondence related to this issue. E-mail correspondence should cite DFARS Case 98–D027 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule adds procedures for reporting payment information to the IRS; revises the procedures for obtaining TIN and CAGE codes when contractors are required to register in the CCR database; and makes a number of editorial changes.

1. *Reporting payment information to the IRS.* This DFARS rule supplements the FAR interim rule (Case No. 97–003) published as Item I of FAC 97–09 on October 30, 1998 (63 FR 58586).

a. The FAR rule renumbered and retitled FAR 4.903, Payment information, as FAR 4.904, Reporting payment information to the IRS; and deleted the list, previously located at FAR 4.903(b), of the types of payments that are exempt from reporting payment information to the IRS on Form 1099. The list was deleted as being unnecessary to include in the FAR because the payment office is responsible for submitting Form 1099 reports to the IRS.

b. This rule adds a new section at DFARS 204.904, Reporting payment information to the IRS. This section contains a list that is similar to the one previously found in the FAR, but the DFARS list has been updated to comply with the Taxpayer Relief Act of 1997 (Pub. L. 105–32). Section 1022 of the Act amends 26 U.S.C. 6041A to add payments under certain classified contracts to the list of exceptions, and to remove payments for services provided by corporations from the list. DFARS 204.904 also adds a requirement for the contracting officer to provide a statement to the payment office if the contractor is providing services subject to Form 1099 reporting to the IRS. This statement is not required if the contracting officer concludes that one of the exceptions listed at DFARS 204.904(1) applies. this procedure was added to the DFARS to facilitate issuance of Form 1099 reports by the payment office.

2. *Procedures for obtaining TINs and CAGE code numbers when CCR applies.* The FAR rule also modified the process for obtaining TINs, by permitting agencies to prescribe their own unique procedures for obtaining TINs from contractors and for providing the TINs to the payment office. DoD uses the CCR database for these purposes. DFARS 252.204–7004, Required Central Contractor Registration, requires most contractors doing business with DoD to register in the CCR database prior to award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement. As part of the registration process, contractors must provide their TINs and DoD-unique CAGE code numbers. DoD payment offices have access to this information through the CCR database. This DFARS rule clarifies that the contracting officer shall not use the solicitation provisions at FAR 52.204–3, Taxpayer Identification, and DFARS 252.204–7001, Commercial and Government

Entity (CAGE) Code Reporting; or paragraph (b) of the provision at FAR 52.212–3, Offeror Representations and Certifications—Commercial Items, when the contractor is required to register in the CCR database, since the information requested in these provisions is duplicative of the information that the contractor is required to provide during the CCR process.

3. *Editorial changes.* This DFARS rule makes a number of editorial changes, including updating CAGE code information in Subpart 204.72, Contractor Identification, and clarifying certain requirements in Subpart 204.73, Central Contractor Registration.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* FAR and DFARS requirements already exist for contractors to furnish TINs and CAGE codes, and to register in the CCR database. This rule simply clarifies that, if the contractor is required to register in the CCR database, the contractor is not required to provide a TIN in accordance with FAR 52.204–3 or paragraph (b) of FAR 52.212–3, or a CAGE code in accordance with DFARS 252.204–7001. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite 5 U.S.C. 601, et seq. (DFARS Case 98–D027), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) applies because the rule contains information collection requirements. The proposed rule decreases the collection requirements currently approved under Office of Management and Budget Control Number 0704–0225, since the rule limits the use of the solicitation provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, to contractors that are not required to register in the CCR database. Therefore, the proposed rule reduces the number of respondents by 89,545, and the number of burden hours by 22,386.

List of Subjects in 48 CFR Parts 204, 212, 213, 252, and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 204, 212, 213, 252, and 253 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 204, 212, 213, 252, and 253 continues to read as follows:

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

PART 204—ADMINISTRATION MATTERS

2. Section 204.203 is added to read as follows:

204.203 Taxpayer identification information.

(1) The procedures at FAR 4.203(a) and (b) do not apply to contracts that include the clause at 252.204–7004, Required Central Contractor Registration.

(2) For DoD basic ordering agreements and indefinite-delivery contracts that require the contractor to register in the Central Contractor Registration (CCR) database (see Subpart 204.73)—

(i) The contracting officer issuing the agreement or contract need not provide a copy of the completed solicitation provision at FAR 52.204–3 or 52.212–3(b) to DoD contracting officers placing orders under the agreement or contract; and

(ii) A DoD contracting officer placing an order under the agreement or contract need not provide the TIN of type of organization information to the payment office.

(3) For non-DoD basic ordering agreements and indefinite-delivery contracts, a DoD contracting officer placing an order under the agreement or contract need not provide the TIN or type of organization information to the payment office if the contractor must register in the CFR database before placement of the order (see Subpart 204.73).

204.602–70 [Removed]

3. Section 204.602–709 is removed.

4. Section 204.603 is added to read as follows:

204.603 Solicitation provisions.

(1) Use the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when—

(i) The prospective contractor will not be required to register in the Central Contractor Registration database; and

(ii) The Commercial and Government Entity codes for the prospective offerors are not available to the contracting office.

(2) Use the provision at FAR 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations that—

(i) Have an estimated value exceeding $25,000; or

(ii) Have an estimated value of $25,000 or less and include the provision at 252.204–7004, Required Central Contractor Registration.

5. The heading of Subpart 204.9 is revised to read as follows:

Subpart 204.9—Taxpayer Identification Number Information

6. Sections 204.904 and 204.905 are added to read as follows:

204.904 Reporting payment information to the IRS.

(1) 26 U.S.C. 6041 and 6041A and 26 CFR 1.6041 require Government payors to report to the IRS, on IRS Form 1099, payments of an annual cumulative value of $600 or more provided to a contractor, except payments for—

(i) Supplies, unless the supplies are incidental to the furnishing of services;

(ii) Telegram, telephone, freight, storage, or similar charges;

(iii) Income that must be reported on an IRS Form W–2 (e.g., payments to employees or payments under contracts for personal services);

(iv) Any contract with a Federal agency;

(v) Any contract with a State, the District of Columbia, or a possession of the United States, or a political subdivision, agency, or instrumentality of any of the foregoing;

(vi) Any contract with an organization exempt from taxation by 26 U.S.C. 501(a). Such organizations may include charitable, social welfare, labor, agricultural, veterans', and political organizations; business leagues; social clubs; fraternal societies; and employees' associations. Contracting officers may obtain additional information to assist in determining an organization's tax-exempt status via the Internet at http://www.irs.ustreas.gov/prod/bus__info/eo/eo-types.html;

(vii) Any contract with a foreign government or political subdivision of a foreign government;

(viii) Any contract with an international organization listed at 22 U.S.C. 288;

(ix) Any classified contract under 26 U.S.C. 6050M. As used in this section only, a contract is classified if—

(A) the existence of the contract or the contract subject matter is designated as classified (i.e., requires a specific degree

of protection against unauthorized disclosure for reasons of national security); or

(B) The head of the agency determines that filing IRS Form 1099 would interfere with the effective conduct of a confidential law enforcement or foreign intelligence activity; or

(x) Such other services as the IRS may specify in regulations.

(2) Unless an exception in paragraph (1) of this section applies, the contracting officer shall provide, as the last page of the copy of the contract sent to the payment office—

(i) A statement that the contractor is providing services subject to Form 1099 payment information reporting to the IRS, as required by 26 U.S.C. 6041 and 6041A; and

(ii) The contractor's TIN and type of organization, if the contractor is not required to register in the Central Contractor Registration database (see Subpart 204.73) prior to award.

204.905 Solicitation provision.

Do not use the provision at FAR 52.204–3, Taxpayer Identification, in solicitations that include the provision at 252.204–7004, Required Central Contractor Registration.

7. Sections 204.7201, 204.7202, and 204.7202–1 are revised to read as follows:

204.7201 Definitions.

(a) *Commercial and Government Entity (CAGE) code* means-

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization (NATO) that is recorded and maintained by DLIS in the CAGE master file.

(b) *Contractor identification code* means a code required by the contracting office for the purpose of identifying the offeror. The three types of contractor identification codes are CAGE codes, Data Universal Numbering System (DUNS) numbers, and Taxpayer Identification Numbers.

204.7202 General.

204.7202–1 CAGE codes.

(a) DLIS assigns or records and maintains CAGE codes to identify commercial and Government activities. Use of CAGE codes is prescribed by 253.204–70(b)(5)(ii)(C); DoD 4000.25–5–M, Military Standard Contract Administration Procedures (MILSCAP); and DoD 4130.2–M, Federal Catalog System Policy Manual.

(b)(1) If a prospective contractor is required to register in the CCR database (see Subpart 204.73) and does not have a CAGE code, DLIS will assign a CAGE code when the prospective contractor submits its request for registration in the CCR database.

(2) If a prospective contractor is not required to register in the CCR database, the CAGE code is not already available in the contracting office, and the prospective contractor does not respond to the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, use the following procedures:

(i) To identify the prospective contractor's CAGE code, use—

(A) The monthly H-series CD ROM that contains the H–4/H–8 CAGE master file issued by DLIS. (Their address is: DLIS–VS, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017–3084. Their telephone numbers are: DSN 932–4726, toll free 1–888–352–9333, or commercial (616) 961–4726;

(B) The on-line access to the CAGE file through the Defense Logistics Information System;

(C) The on-line access to the Defense Logistics Agency CAGE file through the DLA Network or dial-up capability; or

(D) The Internet to access the CAGE Lookup Server at http://www.dlis.dla.mil/cage__welcome.htm.

(ii) If no CAGE code is identified using the procedures in paragraph (b)(2)(i) of this subsection, ask DLIS to assign a CAGE code. Submit a DD Form 2051, Request for Assignment of a CAGE Code, (or electronic equivalent) to the address in paragraph (b)(2)(i)(A) of this subsection, ATTN: DLIS–SBB. The contracting office completes Section A of the DD Form 2051, and the contractor completes Section B. The contracting office must verify Section B before submitting the form.

(c) Direct questions on obtaining computer tapes, electronic updates, or code assignments to DLIS (DLIS–SBB) at DSN 932–4358, or commercial (616) 961–4358.

8. Sections 204.7203 and 204.7204 are revised to read as follows:

204.7203 Responsibilities of contracting officers.

(a) Assist the offeror in obtaining the required CAGE code(s).

(b) Do not deny a prospective offeror a solicitation or bid set because the offeror does not have a contractor identification code.

(c) If a prospective contractor is not required to register in the CCR database, and a CAGE code has not been identified, request the assignment of the CAGE code by following the procedures at 204.7202–1(b)(2)(ii). CAGE codes may be requested at the time the offeror is sent a solicitation package or added to the mailing list to ensure that a code is assigned in sufficient time to process the DD Form 350, Individual Contracting Action Report, without delay.

204.7204 Maintenance of the CAGE file.

(a) Changes, except name changes, may be submitted in writing—

(1) By the entity identified by the code, using company letterhead;

(2) By the contracting office; or

(3) By the contract administration office (also see FAR Subpart 42.12, Novation and Change-of-Name Agreements);

(4) Using the DD Form 2051, facsimile or electronic equivalent, to:

Defense Logistics Information Service, DLIS–SBB, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017–3084, Telephone Numbers: DSN 932–4358, Commercial (616) 961–4358, Facsimile: (616) 961–4528, 4388, 4485, Internet: http//www.dlis.dla.mil/form2051.htm

(b) The change-of-name agreement shall be submitted to DLIS–SBB by the contracting officer responsible for execution of the agreement (see FAR Subpart 42.12). In the event there are no current contracts in force, each contracting and contract administration office receiving notification of changes from the commercial entity shall forward a copy of the change notice annotated with the CAGE code to DLIS–SBB unless the change notice indicates that DLIS–SBB has already been notified.

(c) Additional guidance for maintaining CAGE codes is in Volume 7 of DoD 4100.39–M, Federal Logistics Information System (FLIS) Procedures Manual.

9. Section 204.7302 is amended by revising paragraphs (a) and (c) to read as follows:

204.7302 Policy.

* * * * *

(a) Purchases paid for with a Governmentwide commercial purchase card.

* * * * *

(c) Classified contracts or purchases (see FAR 4.401) when registration in the CCR database, or use of CCR data, could compromise the safeguarding of classified information or national security.

* * * * *

10. Section 204.7303 is amended by revising paragraph (a)(1) and paragraph (b) introductory text to read as follows:

204.7303 Procedures.

(a)(1) Except as provided in 204.7302, the contracting officer shall require each offeror to provide a DUNS number (see 204.603(2)) or, if applicable, a DUNS+4 number, with its verbal or written offer, regardless of the dollar amount of the offer.

* * * * *

(b) If the contracting officer determines that a prospective contractor is not registered in the CCR database and an exception to the registration requirements for the award does not apply (see 204.7302), the contracting officer shall—

* * * * *

PART 212—ACQUISITION OF COMMERCIAL ITEMS

11. Section 212.301 is amended by adding paragraph (b)(2) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(b)(2) Paragraph (b) of the provision at FAR 52.212–3 does not apply when the solicitation includes the clause at 252.204–7004, Required Central Contractor Registration.

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

12. Section 213.106–3 is added to read as follows:

213.106–3 Award and documentation.

(e) The procedures at FAR 13.106–3(e) do not apply when the contract includes the clause at 252.204–7004, Required Central Contractor Registration.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. Section 252.204–7001 is amended by revising the introductory text, the provision date, paragraph (b) introductory text, and paragraph (b)(2) to read as follows:

252.204–7001 Commercial and Government Entity (CAGE) code reporting.

As prescribed in 204.603(1), use the following provision:

Commercial and Government Entity (CAGE) Code Reporting (XXX 19XX)

* * * * *

(b) If the Offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will—

* * * * *

(2) Complete section a and forward the form to DLIS; and

* * * * *

PART 253—FORMS

14. Section 253.204–70 is amended by revising paragraph (b)(5)(ii)(F)(*3*) to read as follows:

253.204–70 DD Form 350, Individual Contracting Action Report.

* * * * *

(b) * * *

(5) * * *

(ii) * * *

(F) * * *

(3) An agency or instrumentality of the Federal Government.

* * * * *

[FR Doc. 99–847 Filed 1–14–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 120998C]

RIN 0648–AK31

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 16A; Correction

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

ACTION: Correction to notice of availability of an amendment to a fishery management plan.

SUMMARY: NMFS corrects a notice of availability of Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico to indicate the availability of a minority report. The minority report opposes Amendment 16A as inconsistent with national standards 2, 4, 5, 6, 7, and 8, and specifically raises concerns regarding the proposed prohibition of the use of fish traps in the exclusive economic zone of the Gulf of Mexico south of 25°03' N. lat. after February 7, 2001.

ADDRESSES: Requests for copies of the minority report should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266, Phone: 813–228–2815; Fax: 813–225–7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 727–570–5305.

SUPPLEMENTARY INFORMATION:

Correction

In FR document 98–33603, on page 70093, in the issue of Friday, December 18, 1998, make the following correction:

On page 70093, in the second column, in the **ADDRESSES** section, on the ninth line, ''analysis, should ...'' should read ''analysis, and requests for copies of a minority report, signed by two Council members, should...''

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

Dated: January 9, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–1015 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–067N]

Australia's Meat Safety Enhancement Program (MSEP)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; request for comments and public meeting notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a paper prepared by the Australian Quarantine and Inspection Service (AQIS) that sets forth its new Meat Safety Enhancement Program (MSEP) for slaughter inspection in establishments that process meat for export to the United States and to other countries. The public may submit comments on the MSEP document in writing or at a public meeting.

DATES: The meeting will be held on February 3, 1999, from 9 a.m. to 3 p.m.

Written comments must be received on or before February 16, 1999.

ADDRESSES: Copies of the MSEP document are available from the FSIS Docket Clerk, Room 102 Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. A copy may also be obtained from the Australian Quarantine and Inspection Service (AQIS) homepage at http://www.dpie.gov.au/aqis/homepage/msep1.html. Submit one original and two copies of written comments to the FSIS Docket Clerk, Docket #98–067N, at the address shown above. Facsimile comments may be sent to 202–690–0486. The public can review all received comments in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

The meeting will be held at the Washington Plaza Hotel at 10 Thomas Circle NW (at Massachusetts Avenue and 14th Street), Washington, DC 20009, (202) 842–1300. Transcripts of the meeting will be available in the FSIS Docket Room, Room 102, 300 12th Street SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: For further information about the MSEP document or to register for the meeting, contact Mr. Mark Manis, Director, International Policy Division; Office of Policy, Program Development, and Evaluation; (202) 720–6400; or by electronic mail to *mark.manis@usda.gov*.

Attendees who require a sign language interpreter or other special accommodation should contact Mr. Mark Manis by January 26, 1999.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1997, FSIS announced in the **Federal Register** (62 FR 29326) that it was making available a proposal prepared by the Australian Quarantine and Inspection Service (AQIS) for a new slaughter inspection model, commonly named ''Project 2.'' FSIS sought public comment to determine whether the Australian Project 2 proposal would ensure the safety, wholesomeness, and truthful labeling of product produced under such a system. This determination was necessary in order for the United States to accept meat produced by Australian establishments that would participate in the Project 2 trials.

Results from the **Federal Register** notice indicated strong public support for HACCP and quality assurance systems, such as the Project 2 proposal provided, as effective means to control food processing hazards and thus reduce foodborne illness risks. However, less agreement was evident on the fundamental question raised by Project 2: What level of federal oversight must be provided to establishments that are implementing or have implemented HACCP and quality assurance programs?

FSIS informed AQIS in a letter dated November 7, 1997 [1], as follows: ''While the Project 2 protocol provides adequate assurances that process control is likely to be maintained in participating establishments, we find the proposed form and intensity of federal oversight to be inadequate to verify, over time, in normal operating conditions, that these controls will be maintained. While FSIS encourages and supports your efforts to demonstrate how Australian meat plants operate under plant controlled HACCP and quality assurance systems, we believe that the combination of sweeping change in establishment processing techniques and a shift from command and control inspection presents uncertainties that require federal oversight of a type and intensity greater than that proposed by Project 2.''

FSIS also advised AQIS that it would consider the Project 2 proposal further if it were modified to provide a level of federal oversight that is equivalent to that which will be employed by the United States through its inspection models project that was then under development.

On January 6, 1998, AQIS wrote to FSIS and proposed options for increased Federal oversight as a means to advance its Project 2 proposal. The substance of these options was that AQIS would agree to provide direct inspector oversight and verification of establishment sorting operations. FSIS answered this proposal in a letter dated February 3, 1998 [2], as follows:

''This responds to your letter of January 6, 1998, in which you proposed additional Federal oversight for your planned Project 2 trials. In summary, we find the enhanced level of oversight you propose an encouraging step toward an agreement on equivalence.

''Our inspection models project is commencing its baseline phase this spring and we invite Australia to join with us in a parallel endeavor to determine the most appropriate form and intensity of oversight for meat establishments that operate under HACCP. By working together in a collegial fashion, we can resolve equivalence issues incrementally as they arise. For example, as U.S. establishments that participate in our inspection models project accept responsibility for meeting FSIS performance standards they will take over some of the on-line functions now being performed by Federal inspectors. These establishments will continue to be eligible to ship product for sale in commerce because plant sorters will operate under direct oversight by FSIS inspectors.

''If AQIS were to modify its * * * proposal to include the additional baseline data collections * * *, develop performance standards to compare establishment effectiveness with Federal inspection

[1] The FSIS Docket Room has a copy of the letter for public inspection.

[2] The FSIS Docket Room has a copy of the letter for public inspection.

effectiveness, incorporate direct oversight of establishment sorting activities and a combination of organoleptical and microbiological sampling at a level sufficient to detect noncompliance, and agree to proceed collaboratively with FSIS during the development of new HACCP-based inspection models, the United States would be willing to accept meat produced by establishments that participate in the * * * trials.''

In August 1998, AQIS submitted its proposal for a new slaughter inspection system described as the ''Meat Safety Enhancement Program'' (MSEP). Copies are available from the FSIS Docket Clerk.

Determination of Equivalence

As a result of the World Trade Organization (WTO) Agreement on Sanitary and Phytosanitary measures (commonly referred to as the ''SPS Agreement''), contracting parties, including the United States, are committed to harmonizing their human, animal, and plant health import requirements by basing their sanitary and phytosanitary (SPS) import requirements on ''equivalent'' sanitary measures or standards. Among other things, the SPS Agreement obliges the United States to respond to requests by other contracting parties to establish the equivalence of specified meat and poultry processing measures with those of the United States.

The Australian Government has formally requested that the United States consider its MSEP proposal to pilot-test a revised slaughter inspection system. FSIS has conducted a review of the AQIS MSEP document with particular emphasis on three criteria:

(1) Does the MSEP adequately respond to oversight concerns raised by FSIS in its November 7, 1997 letter (referenced above)?

(2) Does the MSEP meet all conditions presented by FSIS in its February 3, 1998 letter (referenced above)?

(3) Does the MSEP provide an equivalent level of public health protection guaranteed by FSIS slaughter inspection methods?

FSIS has reviewed the MSEP document, and it appears that these three criteria are appropriately met in that direct continuous Federal oversight and verification of establishment slaughter operations would be provided for and all other specified conditions have been met. Additionally, FSIS has compared MSEP sanitary measures with those provided by its HACCP-based Inspection Models Project, and finds that these two programs appear to be conceptually similar in design.

However, before making any decisions or taking any action on the MSEP document, FSIS has decided to request public comment on it.

Done at Washington, D.C. on: January 8, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–928 Filed 1–14–99; 8:45 am]

BILLING CODE 3410–DM–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Electronic and Information Technology Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to assist it in developing a proposed rule on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. This document gives notice of the dates, times, and location of the next meeting of the Electronic and Information Technology Access Advisory Committee (Committee).

DATES: The next meeting of the Committee is scheduled for February 8 and 9, 1999, beginning at 9:30 a.m. and ending at 5:00 p.m. each day.

ADDRESSES: The meetings will be held at 1331 F Street, NW., Washington, DC, in the third floor training room.

FOR FURTHER INFORMATION CONTACT: Doug Wakefield, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 39 (Voice); (202) 272–5449 (TTY). E-mail address: wakefield@access-board.gov. This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet Site at http://www.access-board.gov/notices/eitaacmtg.htm.

SUPPLEMENTARY INFORMATION: On September 29, 1998, the Access Board published a notice appointing 23 members to its Electronic and Information Technology Access Advisory Committee (Committee). 63 FR 51891 (September 29, 1998). The Committee will make recommendations to the Access Board on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. The Committee is composed of Federal agencies and Federal contractors; the electronic and information technology industry; organizations representing the access needs of individuals with disabilities; and other persons affected by accessibility standards for electronic and information technology. At its first meeting on October 15 and 16, 1998, the Committee took the following actions:

- Added Compaq Computers, Pitney Bowes, Sun Microsystems, and the Information Technology Industry Council to the Committee;
- Formed three subcommittees. One subcommittee will examine the definitions needed for the recommended standards. Another subcommittees will examine the various functions that are performed by electronic and information technology. These functions include creating, processing, transmitting, and interacting with information and the technology involved. A third subcommittee will begin the process of classifying the variety of products covered by the standards into product families;
- Created a listserv to facilitate communications between meetings. To subscribe to the listserv send an e-mail message to: listproc@trace.wisc.edu.; and
- Established a schedule of meeting dates. In addition to the meeting on February 8–9, 1999, the Committee will meet again on March 29–30, 1999 and, May 11–12, 1999.

At its second meeting on December 1 and 2, 1998, the Committee addressed the scope of the standards it will be recommending to the Access Board. This included defining the term ''electronic and information technology.'' A three person group was appointed to develop a recommended definition and present it to the Committee at its January meeting.

Additionally, four subcommittees were formed. These include: installation and setup, information presentation, control and operation, and user information. The subcommittees will examine these specific areas and identify access barriers in each area, and recommend standards that could lower or eliminate these barriers. The subcommittees will continue their work on the listserv.

During the January meeting, the committee adopted a working definition for electronic and information technology based on the definition of information technology in the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)).

The four subcommittees, created during the December meeting, continued work on their specified areas.

The meetings are open to the public. There will be a public comment period each day for persons interested in presenting their views to the Committee. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real-time transcription will be available.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–988 Filed 1–14–99; 8:45 am]

BILLING CODE 8150–01–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Passenger Vessel Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to assist it in developing a proposed rule on accessibility guidelines for newly constructed and altered passenger vessels covered by the Americans with Disabilities Act. This document gives notice of the dates, times, and location of the next meeting of the Passenger Vessel Access Advisory Committee (Committee).

DATES: The next meeting of the Committee is scheduled for February 4 through 6, 1999, beginning at 9:00 a.m. and ending at 5:00 p.m. each day.

ADDRESSES: The meeting will be held at 1331 F Street, NW., Washington, DC, in the third floor training room.

FOR FURTHER INFORMATION CONTACT: Paul Beatty, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 19 (Voice); (202) 272–5449 (TTY). E-mail pvaac@access-board.gov. This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet Site at http://www.access-board.gov/notices/pvaacmtg.htm.

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) established a Passenger Vessel Access Advisory Committee (Committee) to assist the Board in developing proposed accessibility guidelines for newly constructed and altered passenger vessels covered by the Americans with Disabilities Act. 63 FR 43136 (August 12, 1998). The Committee is composed of owners and operators of various passenger vessels; persons who design passenger vessels; organizations representing individuals with disabilities; and other individuals affected by the Board's guidelines.

The Committee will meet on the dates and at the location announced in this notice. The meeting is open to the public. The facility is accessible to individuals with disabilities. Individuals who require sign language interpreters or real-time captioning systems should contact Paul Beatty by January 26, 1999. Persons attending the meetings are strongly encouraged to use public transportation since parking is extremely limited. The accessible entrance to the Metro Center Metro Station is located approximately three blocks from the meeting site.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–987 Filed 1–14–99; 8:45 am]

BILLING CODE 8150–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 16, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Cups, Paper, Disposable, Hot
7350–00–205–1182
7350–00–290–0588
7350–00–988–6498
NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana

Services

Food Service Attendant, Eglin Air Force Base, Florida
NPA: Lakeview Center, Inc., Pensacola, Florida
Laundry Service, Naval Hospital, Camp Pendleton, Calfornia
NPA: Job Options, Inc., San Diego, California
Operation of Individual Equipment Element Store, Moody Air Force Base, Georgia
NPA: Georgia Industries for the Blind, Bainbridge, Georgia

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for deletion from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List:

Pillowcase, Cotton/Cotton Polyester
7210–00–054–7910

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–984 Filed 1–14–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: February 16, 1999.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 16 and 30, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 F.R. 63670, 65746 and 65747) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Jack, Scissors, Hand
5120–00–106–7598

Services

Commissary Shelf Stocking, Custodial and Warehousing, Naval Air Station, Key West, Florida
Commissary Shelf Stocking, Custodial and Warehousing, Fort Detrick, Maryland
Commissary Shelf Stocking, Custodial and Warehousing, Dahlgren Naval Surface Warfare Center, Dahlgren, Virginia
Commissary Shelf Stocking, Custodial and Warehousing, Fort McCoy, Wisconsin

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Broom, Upright
7920–00–291–8305
7920–00–292–4371
7920–00–292–4372
7920–00–292–4375

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–985 Filed 1–14–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–841]

Vector Supercomputers From Japan: Notice of Recission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of recission of antidumping duty administrative review.

EFFECTIVE DATE: January 15, 1999.

SUMMARY: On November 30, 1998, the Department of Commerce (the Department) published in the **Federal Register** (63 FR 65748) a notice announcing the initiation of an administrative review of the antidumping duty order on vector supercomputers, covering the period October 16, 1997, through September 30, 1998, and two manufacturers/exporters of the subject merchandise, Fujitsu Limited and NEC Corporation. The Department initiated this review based on a request from Cray Research, Inc. We are now rescinding this review as a result of Cray Research, Inc.'s

withdrawal of its request for an administrative review.

FOR FURTHER INFORMATION CONTACT: Constance Handley, Office of AD/CVD Enforcement, Group I, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0631.

SUPPLEMENTARY INFORMATION:

Background

On October 30, 1998, Cray Research, Inc., the petitioner, requested an administrative review of the antidumping duty order on vector supercomputers from Japan in accordance with 19 CFR 351.213(b). On November 30, 1998, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of this order for the period October 16, 1997, through September 30, 1998. On December 1, 1998, Cray Research, Inc., withdrew its request for this review.

Pursuant to 19 CFR 351.213(d)(1), the Department may allow a party that requests an administrative review to withdraw such request within 90 days of the date of publication of the notice of initiation of the requested review. Because Cray Research, Inc.'s request for termination was submitted within the 90-day time limit and there were no requests for review from other interested parties, we are rescinding this review. We will issue appropriate appraisement instructions directly to the U.S. Customs Service.

This determination is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675), and 19 CFR 351.213(d)(4).

Dated: January 11, 1999.

Laurie Parkhill,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–999 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 981019262–8262–01]

RIN 0693–ZA27

Announcing Draft Federal Information Processing Standard (FIPS) 46–3, Data Encryption Standard (DES), and Request for Comments

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice: request for comments.

SUMMARY: The Data Encryption Standard (DES) provides specifications for the Data Encryption Algorithm and is used by federal agencies (and others outside the government) for the protection of sensitive information. This standard, first issued in 1977, is reviewed every five years. The DES, currently specified in Federal Information Processing Standard (FIPS) 46–2, is due for review in December 1998. NIST is proposing to replace FIPS 46–2 with FIPS 46–3 to provide for the use of Triple DES as specified in the American National Standards Institute (ANSI) X9.52 standard. Comments are sought from industry, government agencies, and the public on the draft of FIPS 46–3.

DATES: Comments must be received on or before April 15, 1999.

ADDRESSES: Written comments concerning this standard should be sent to: Information Technology Laboratory, Attention: Review of Draft FIPS 46–3, National Institute of Standards and Technology, 100 Bureau Drive Stop 8970, Gaithersburg, MD 20899–8970. Comments may also be sent via e-mail to ''desreview@nist.gov''.

Interested parties may order a copy of FIPS 46–2 from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. Telephone (703) 487–1650. Copies of FIPS 46–2 and its proposed replacement (Draft FIPS 46–3) may also be downloaded from <http://csrc.nist.gov/fips>.

Ordering information for the ANSI X9.52 (Triple DES) standard is available from American Bankers Assoc./DC, X9 Customer Service Dept., PO Box 79064, Baltimore, MD 21279–0064, telephone 1–800–338–0626.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid (301) 975–2938, National Institute of Standards and Technology, 100 Bureau Drive Stop 8930, Gaithersburg, MD 20899–8930.

SUPPLEMENTARY INFORMATION: Federal Information Processing Standard 46, Data Encryption Standard, first issued in 1977, specifies the Data Encryption Algorithm for the cryptographic protection of computer data. The standard provided that it be reviewed within five (5) years to assess its adequacy. The first review was completed in 1983, and the standard was reaffirmed for Federal government use (48 FR 41062). The second review was completed in 1987, and was again reaffirmed for Federal government use (52 FR 7006) and re-issued as FIPS 46–1 with minor editorial updating. The third review was completed in 1993, and the standard was reaffirmed as FIPS 46–2 for Federal government use (58 FR 69347). In addition to hardware implementations, FIPS 46–2 provided for software implementations of the DES. We are now proposing to replace FIPS 46–2 with FIPS 46–3 to also allow for the use of Triple DES as described in ANSI X9.52.

When DES was reaffirmed in 1993, NIST stated in the announcement that NIST would ''consider alternatives which offer a higher level of security'' at the next review in 1998. After the first exhaustion of a DES key, NIST advised Federal organizations that DES, properly used, still provided adequate security for many applications. At the time, NIST also stated that organizations needing security beyond that provided by the DES could use Triple DES as specified in ANSI X9.52. NIST worked with the financial community to develop this standard. Triple DES is a method for using the DES algorithm in three operations, developed by the private sector and used in many government and private sector organizations, particularly in the financial services industry. These operations have been documented and specified as an American National Standard (ANSI X9.52) by Accredited Standards Committee X9 for Financial Services,which develops cryptography and public key infrastructure standards. The American Bankers Association is the secretariat for X9. Ordering information for the X.52 standard is contained in the **ADDRESSES** section.

Additionally, knowing that the DES' security life was nearing an end, NIST has been working with industry and the cryptographic community to develop an Advanced Encryption Standard (AES) for the 21st century. On January 2, 1997, NIST announced the initiation of an effort to develop the AES (62 FR 93). It is intended that the AES will specify an unclassified, publicly disclosed encryption algorithm capable of protecting sensitive government information well in the next century. Unfortunately, since it takes a substantial amount of time to gain confidence in a new encryption algorithm, the AES is not expected to be a fully developed FIPS for some time to come. Information on NIST's multi-year effort to develop the AES can be obtained at <http://www.nist.gov/aes >.

Recently claims have been made of a special-purpose hardware based attack on the DES. In light of this most recent attack, NIST can no longer support the use of the DES for many applications. As with other security tools, encryption must balance cost against risk. The recent brute force exhaustion attack by a ''cracking machine'' costing $250,000 took 56 hours to crack a single message.

With this special-purpose technology, the average time of cracking per message would be twice that, since only a quarter of all keys were tested. In some cases this kind of attack may not pose an immediate or significant threat—for example where short-term protection of perishable information is desired. However, advances in technology are likely to further reduce the average cracking time. Therefore, NIST recommends the following:

—For existing systems, develop a prudent transition strategy to move to Triple DES. This strategy should match the strength of the protective measures against the associated risk. Critical systems should receive priority

—When building new systems, use Triple DES to protect sensitive, unclassified data

These recommendations are reflected in the proposed draft FIPS 46–3 (see below) by recognizing Triple DES, as described in ANSIX9.52, as a FIPS approved algorithm. Comments are sought on the proposed draft of FIPS 46–3.

Authority: This work effort is being conducted pursuant to NIST's responsibilities under the Computer Security Act of 1987, the Information Technology Management Reform Act of 1996, Executive Order 13011, and Office of Management and Budget (OMB) Circular A–130 for the development of security standards and guidelines for the protection of sensitive federal information technology systems.

DRAFT Federal Information Processing Standards Publication 46–3; 1999 (Approval Date) Announcing the Data Encryption Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 5131 of the Information Technology Management Reform Act of 1996 (Pub. L. 104–106), and the Computer Security Act of 1987 (Pub. L. 100–235).

1. Name of Standard. Data Encryption Standard (DES).

2. Category of Standard. Computer Security, Cryptography.

3. Explanation. The Data Encryption Standard (DES) specifies two FIPS approved cryptographic algorithms as required by FIPS 140–1. When used in conjunction with American National Standards Institute (ANSI) X9.52 standard, this publication provides a complete description of the mathematical algorithms for encrypting (enciphering) and decrypting (deciphering) binary coded information. Encrypting data converts it to an unintelligible form called cipher. Decrypting cipher converts the data back to its original form called plaintext. The algorithms described in this standard specifies both enciphering and deciphering operations which are based on a binary number called a key.

A DEA key consists of 64 binary digits (''O''s or ''1''s) of which 56 bits are randomly generated and used directly by the algorithm. The other 8 bits, which are not used by the algorithm, may be used for error detection. The 8 error detecting bits are set to make the parity of each 8-bit byte of the key odd, i.e., there is an odd number of ''1''s in each 8-bit byte [1]. A TDEA key consists of three DEA keys, which is also referred to as a key bundle. Authorized users of encrypted computer data must have the key that was used to encipher the data in order to decrypt it. The encryption algorithms specified in this standard are commonly known among those using the standard. The cryptographic security of the data depends on the security provided for the key used to encipher and decipher the data.

Data can be recovered from cipher only by using exactly the same key used to encipher it. Unauthorized recipients of the cipher who know the algorithm but do not have the correct key cannot derive the original data algorithmically. However, it may be feasible to determine the key by a brute force ''exhaustion attack.'' Also, anyone who does have the key and the algorithm can easily decipher the cipher and obtain the original data. A standard algorithm based on a secure key thus provides a basis for exchanging encrypted computer data by issuing the key used to encipher it to those authorized to have the data. Data that is considered sensitive by the responsible authority, data that has a high value, or data that represents a high value should be cryptographically protected if it is vulnerable to unauthorized disclosure or undetected modification during transmission or while in storage. A risk analysis should be performed under the direction of a responsible authority to determine potential threats. The costs of providing cryptographic protection using this standard as well as alternative methods of providing this protection and their respective costs should be projected. A responsible authority then should make a decision, based on these analyses, whether or not to use cryptographic protection and this standard.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology, Information Technology Laboratory.

6. Applicability. This standard may be used by Federal departments and agencies when the following conditions apply:

(1) An authorized official or manager responsible for data security or the security of any computer system decides that cryptographic protection is required; and

(2) The data is not classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended.

Federal agencies or departments which use cryptographic devices for protecting data classified according to either of these acts can use those devices for protecting sensitive data in lieu of the standard.

Other FIPS approved cryptographic algorithms may be used in addition to, or in lieu of, this standard when implemented in accordance with FIPS 140–1.

In addition, this standard may be adopted and used by non-Federal Government organizations. Such use is encouraged when it provides the desired security for commercial and private organizations.

7. Applications. Data encryption (cryptography) is utilized in various applications and environments. The specific utilization of encryption and the implementation of the DEA and TDEA will be based on many factors particular to the computer system and its associated components. In general, cryptography is used to protect data while it is being communicated between two points or while it is stored in a medium vulnerable to physical theft. Communication security provides protection to data by enciphering it at the transmitting point and deciphering it at the receiving point. DEA forms the basis for TDEA. File security provides protection to data by enciphering it when it is recorded on a storage medium and deciphering it when it is read back from the storage medium. In the first case, the key must be available at the transmitter and receiver simultaneously during communication. In the second case, the key must be maintained and accessible for the duration of the storage period. FIPS 171 provides approved methods for managing the keys used by the algorithms specified in this standard.

[1] Sometimes keys are generated in an encrypted form. A random 64-bit number is generated and defined to be the cipher formed by the encryption of a key using a key encrypting key. In this case the parity bits of the encrypted key cannot be set until after the key is decrypted.

Public-key based protocols may also be used (e.g., ANSI X9.42).

8. Implementations. Cryptographic modules which implement this standard shall conform to the requirements of FIPS 140–1. The algorithms specified in this standard may be implemented in software, firmware, hardware, or any combination thereof. The specific implementation may depend on several factors such as the application, the environment, the technology used, etc. Implementations which may comply with this standard include electronic devices (e.g., VLSI chip packages), micro-processors using Read Only Memory (ROM), Programmable Read Only Memory (PROM), or Electronically Erasable Read Only Memory (EEROM), and mainframe computers using Random Access Memory (RAM). When an algorithm is implemented in software or firmware, the processor on which the algorithm runs must be specified as part of the validation process. Implementations of an algorithm which are tested and validated by NIST will be considered as complying with the standard. Note that FIPS 140–1 places additional requirements on cryptographic modules for Government use. Information about devices that have been validated and procedures for testing and validating equipment for conformance with this standard and FIPS 140–1 are available from the National Institute of Standards and Technology, Information Technology Laboratory, Gaithersburg, MD 20899.

9. Export Control. Cryptographic devices and technical data regarding them are subject to Federal Government export controls and exports of cryptographic modules implementing this standard and technical data regarding them must comply with these Federal regulations and be licensed by the Bureau of Export Administration of the U.S. Department of Commerce.

10. Patents. Cryptographic devices implementing this standard may be covered by U.S. and foreign patents, including patents issued to the International Business Machines Corporation. However, IBM has granted nonexclusive, royalty-free licenses under the patents to make, use and sell apparatus which complies with the standard. The terms, conditions and scope of the licenses are set out in notices published in the May 13, 1975 and August 31, 1976 issues of the Official Gazette of the United States Patent and Trademark Office (934 O.G. 452 and 949 O.G. 1717).

11. Alternative Modes of Using the DEA and TDEA. FIPS PUB 81, DES Modes of Operation, describes four different modes for using DEA described in this standard. These four modes are called the Electronic Codebook (ECB) mode, the Cipher Block Chaining (CBC) mode, the Cipher Feedback (CFB) mode, and the Output Feedback (OFB) mode. ECB is a direct application of the DES algorithm to encrypt and decrypt data; CBC is an enhanced mode of ECB which chains together blocks of cipher text; CFB uses previously generated cipher text as input to the DES to generate pseudorandom outputs which are combined with the plaintext to produce cipher, thereby chaining together the resulting cipher; OFB is identical to CFB except that the previous output of the DES is used as input in OFB while the previous cipher is used as input in CFB. OFB does not chain the cipher.

The X9.52 standard, ''Triples Data Encryption Algorithm Modes of Operation'' describes seven different modes for using TDEA described in this standard. These seven modes are called the TDEA Electronic Codebook Mode of Operation (TECB) mode, the TDEA Cipher Block Chaining Mode of Operation (TCBC), the TDEA Cipher Block Chaining Mode of Operation—Interleaved (TCBC–1). TDEA Cipher Feedback Mode of Operation (TCFB), the TDEA Cipher Feedback Mode of Operation—Pipelined (TCFB–P), the TDEA Output Feedback Mode of Operation (TOFB), and the TDEA Output Feedback Mode of Operation—Interleaved (TOFB–I). The TECB, TCBC, TCFB and TOBF modes are based upon the ECB, CBC, CFB and OFB modes respectively obtained by substituting the DEA encryption/decryption operation with the TDEA encryption/decryption operation.

12. Implementation of this standard. This standard became effective July 1977. It was reaffirmed in 1983, 1988, 1993, and 1999 (if approved). It applies to all Federal agencies, contractors of Federal agencies, or other organizations that process information (using a computer or telecommunications system) on behalf of the Federal Government to accomplish a Federal function. Each Federal agency or department may issue internal directives for the use of this standard by their operating units based on their data security requirement determinations.

With this modification of the FIPS 46–2 standard:

(1) Triple DES (i.e., TDEA), as specified in ANSI X9.52 will be recognized as a FIPS approved algorithm.

(2) Triple DES will be the FIPS approved symmetric encryption algorithm of choice.

(3) Single DES (i.e., DEA) will be permitted for legacy systems only. New procurements to support legacy systems should, where, feasible, use Triple DES products running in the single DES configuration.

(4) Government organizations with legacy DES systems are encouraged to transition to Triple DES based on a prudent strategy that matches the strength of the protective measures against the associated risk.

Note: It is anticipated that triple DES and the Advanced Encryption Standard (AES) will coexit as FIPS approved algorithms allowing for a gradual transition to AES. (The AES is a new symmetric-based encryption standard under development by NIST. AES is intended to provide strong cryptographic security for the protection of sensitive information well into the 21st century.)

NIST provides technical assistance to Federal agencies in implementing data encryption through the issuance of standards, guidelines and through individual reimbursable projects.

13. Specifications. Federal Information Processing Standard (FIPS) 46–3, Data Encryption Standard (DES) (affixed).

14. Cross Index.

a. FIPS PUB 31, Guidelines to ADP Physical Security and Risk Management.

b. FIPS PUB 39, Glossary for Computer Systems Security.

c. FIPS PUB 73, Guidelines for Security of Computer Applications.

d. FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

e. FIPS PUB 81, DES Modes of Operation.

f. FIPS PUB 87, Guidelines for ADP Contingency Planning.

g. FIPS PUB 112, Password Usage.

h. FIPS PUB 113, Computer Data Authentication.

i. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.

j. FIPS PUB 171, Key Management Using ANSI X9.17.

k. ANSI X9.42 Agreement of Symmetric Keys on Using Diffie-Hellman and MQV Algorithms.

l. ANSI X9.52, Triple Data Encryption Algorithm Modes of Operation.

15. Qualifications. Both this standard and possible threats reducing the security provided through the use of this standard will undergo review by NIST as appropriate, taking into account newly available technology. In addition, the awareness of any breakthrough in technology or any mathematical weakness of the algorithm will cause NIST to revaluate this standard and provide necessary revisions.

With regard to the use of single DES, exhaustion of the DES (i.e., breaking a

DES encrypted ciphertext by trying all possible keys) has become increasingly more feasible with technology advances. Following a recent hardware based DES key exhaustion attack, NIST can no longer support the use of single DES for many applications. Therefore, Government agencies with legacy single DES systems are encouraged to transition to Triple DES. Agencies are advised to implement Triple DES when building new systems.

16. Comments. Comments and suggestions regarding this standard and its use are welcomed and should be addressed to the National Institute of Standards and Technology, Attn: Director, Information Technology Laboratory, Gaithersburg, MD 20899.

17. Waiver Procedure. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Waiver shall be granted only when:

a. Compliance with standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions 100 Bureau Drive, Stop 8970, Gaithersburg, MD 20899–8970.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the **Federal Register.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver an any accompanying documents, with such deletions as the agency is authorized and decides to make under 5 United States Code Section 552(b), shall be part of the procurement documentation and retained by the agency.

18. Special Information. In accordance with the Qualifications Section of this standard, review of this standard have been conducted every 5 years since its adoption in 1977. The standard was reaffirmed during each of those reviews. This revision to the text of the standard contains changes which allow software implementations of the algorithm, permit the use of other FIPS approved cryptographic algorithms, and designate Triple DES (i.e., TDEA) as a FIPS approved cryptographic algorithm.

19. Where to Obtain Copies of the Standard. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 46–3 (FIPSPUB46–3), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

(Note that the technical specifications of the DES encryption algorithm are not reproduced in this **Federal Register** Notice. They are available in FIPS 46–2 and the draft of FIPS 46–3. No technical changes are being proposed in the DES algorithm itself from the specifications in FIPS 46–2.)

Triple Data Encryption Algorithm

Let $E_K(I)$ and $D_K(I)$ represent the DEA encryption and decryption of I using DEA key K respectively. Each TDEA encryption/decryption operation (as specified in ANSI X9.52) is a compound operation of DEA encryption and decryption operations. The following operations are used:

1. TDEA encryption operation: the transformation of a 64-bit block I into a 64-bit block) that is defined as follows:

$O=E_{K3}(D_{K2}(E_{K1}(I)))$

2. TDEA decryption operation: the transformation of a 64-bit block I into a 64-bit block O that is defined as follows:

$O = D_{K1}(E_{K2}(D_{K3}(I)))$

The standard species the following keying options for bundle (K_1, K_2, K_3)

1. Keying Option 1: K_1, K_2 and K_3 are independent keys;

2. Keying option 2: K_1 and K_2 and independent keys and $K_3 = K_1$;

3. Keying Option 3: $K_1 = K_2 = K_3$.

A TDEA mode of operation is backward compatible with its single DEA counterpart if, with compatible keying options for TDEA operation,

1. An encrypted plaintext computed using a single DEA mode of operation can be decrypted correctly by a corresponding TDEA mode of operation; and

2. An encrypted plaintext computed using a TDEA mode of operation can be decrypted correctly by a corresponding single DEA mode of operation.

When using keying Option 3 ($K_1 = K_2 = K_3$), TECB, TCBC, TCFB, amd TOFB modes are backward compatible with single DEA modes of operation ECB, CBC, CFB, OFB respectively.

The diagram in Appendix 2 illustrates TDEA encryption an TDEA decrytion.

(Note that the two appendices to FIPS 46–3 are not reproduced in this **Federal Register** notice. They are available in the complete draft of FIPS 46–3.)

Dated: January 8, 1999.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 99–898 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Interim Meeting of the National Conference on Weights and Measures will be held January 31 through February 4, 1999, at the Sheraton Old Town Hotel, Albuquerque, New Mexico. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer

organizations to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to 15 U.S.C. 272 B, the National Institute of Standards and Technology acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

DATES: The meeting will be held January 31–February 4, 1999, 8:00 a.m.–5:00 p.m.

LOCATION OF MEETING: Sheraton Old Town Hotel, 800 Rio Grande Boulevard, N.W., Albuquerque, New Mexico 878104.

FOR FURTHER INFORMATION CONTACT: Dr. Gilbert Ugiansky, Chief, NIST, Office of Weights and Measures, 100 Bureau Drive Stop 2350 Gaithersburg, Maryland 20899–2350. Telephone: (301) 975–4004, or E-mail: owm@nist.gov.

Dated: January 8, 1999.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 99–899 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011199C]

Endangered and Threatened Species; Request for Information on Candidate Species List Under the Endangered Species Act

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

ACTION: Request for information for revision of candidate species list.

SUMMARY: NMFS solicits information on marine and anadromous species that may qualify as candidates for possible addition to the List of Endangered and Threatened Species, including information on the status of species currently classified as candidate species. This notice is not a proposal for listing; candidate species do not receive substantive or procedural protection under the Endangered Species Act of 1973 (ESA). The goal of the candidate species program is to identify marine and anadromous species as candidates for possible addition to the List of Endangered and Threatened Species and encourage voluntary efforts to help prevent listings.

DATES: Comments will be accepted until April 15, 1999.

ADDRESSES: Comments and documentation for these and any recommended additions or deletions to the candidate species list should be sent to Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack or Terri Jordan at (301)713–1401.

SUPPLEMENTARY INFORMATION: The ESA requires determinations of whether species of wildlife and plants are endangered or threatened, based on the best available scientific and commercial data. ''Species'' includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any vertebrate species that interbreeds when mature (vertebrate population). NMFS and the U.S. Fish and Wildlife Service share responsibilities under the ESA. With some exceptions, NMFS is responsible for species that reside all or the major portion of their lifetime in marine or estuarine waters. The regulations implementing Section 4 of the ESA (49 FR 38900, October 1, 1984) define ''candidate'' as ''any species being considered by the Secretary for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.''

The four main purposes of the candidate species list are to (1) Increase public awareness about these species; (2) identify those species that may be in need of protective measures under the ESA, and if possible, recover them before listing under the ESA becomes necessary; (3) stimulate voluntary conservation efforts by Federal agencies and other appropriate parties with regard to these species; and (4) identify uncertainties associated with the status of the species. As resources permit, NMFS conducts a review of the status of each candidate species to determine if it warrants listing as endangered or threatened under the ESA. Sometimes, even though NMFS may determine after conducting a status review that a species does not warrant listing under the ESA, NMFS may retain the species on the candidate species list due to remaining concerns or uncertainties. NMFS believes it is important to highlight species for which listing may be warranted so that Federal and state agencies, Native American tribes, and the private sector are aware of which species could benefit from proactive conservation efforts. Agencies and other appropriate parties can take candidate species into account in project planning, which may lower the likelihood of an ESA listing.

NMFS has developed specific criteria for determining which species/vertebrate populations should be included on the NMFS candidate species list. These criteria are based on the requirement for reliable information on the biological status of a species or vertebrate population.

Biological status is determined by both demography and genetic composition of the species/vertebrate population. If there is evidence of demographic or genetic concerns that would indicate that listing may be warranted, the species/vertebrate population should be added to the candidate species list. Demographic concerns would occur when there is a significant decline in abundance or range from historical levels that would indicate that listing may be warranted. This could result from activities such as over-harvest, habitat degradation, disease outbreaks, predation, natural climatic conditions, and hatchery operations that negatively impact natural stocks. Genetic concerns that would indicate that listing may be warranted include outbreeding and inbreeding depression resulting from poor hatchery practices or substantially reduced numbers of natural individuals.

If you wish to propose that a species/vertebrate population be designated as a candidate species, please submit available information, including: (1) Taxonomic validity of the species, subspecies or vertebrate population; (2) life history; (3) historic and current population size and distribution; (4) assessment of confirmed and likely threats and declines; (5) existing laws, regulations, agreements and other protective mechanisms; and (6) documentation of information used to justify their proposal.

The previous list was published on July 14, 1997, (62 FR 37560). NMFS intends to consider the results of ongoing status reviews and all data received in response to this notice to make appropriate amendments to the list. Some of the species NMFS is considering adding to the candidate species list are the largetooth sawfish (*Pristis pristis*), smalltooth sawfish (*Pristis pectinata*), barndoor skate (*Raja laevis*), elkhorn coral (*Acropora palmata*), staghorn coral (*Acropora cervicornis*), and four gastropods that are possibly extinct: ''*Collisella*'' *edmitchelli*, *Lottia alveus alveus*, *Cerithidea fuscata*, and *Phyllaplysia smaragda*.

It is important to note that the candidate species list is limited by the information available. Therefore, it does

not encompass all declining marine and anadromous species that may warrant listing in the future. Moreover, inclusion of a species on the candidate species list does not create a higher listing priority for that species. As appropriate, NMFS may initiate a status review for any species or vertebrate population of concern, regardless of whether it is a candidate species, and the public may petition to list any species or vertebrate population.

Dated: January 12, 1999.

Ann D. Terbush,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–1011 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011199B]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet in Anchorage, AK, the week of February 1, 1999.

DATES: 1. The Scientific and Statistical Committee (SSC) will meet beginning at 8:00 a.m. on Monday, February 1, continuing through at least Tuesday, February 2, 1999.

2. The Advisory Panel (AP) will begin meeting at 8:00 a.m. on Monday, February 1, and continue through Thursday, February 4, 1999.

3. The Council will meet jointly with the Alaska Board of Fisheries beginning at 9:00 a.m. on Tuesday, February 2, and begin their regular plenary session at 8:00 a.m. on Wednesday, February 3, continuing through a portion of Monday, February 8, 1999.

Other workgroup or committee meetings may be held during the week. Notices of these meetings will be posted at the hotel. All meetings are open to the public with the exception of Council executive sessions, which may be held during the noon hour during the meeting week, if necessary, to discuss personnel, international issues, or litigation.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W. Third Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The agenda for the Council's joint meeting with the Alaska Board of Fisheries will include reports and discussion of the following subjects: halibut, groundfish and crab management issues, limited entry for the scallop fisheries off Alaska, progress on a shark management plan, Steller sea lion protection measures, and the American Fisheries Act.

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports from NMFS on the current status of the groundfish fisheries off Alaska, from the International Pacific Halibut Commission on 1999 halibut quotas and from Groundfish Forum on the results of an experimental fishery to test gear to minimize bycatch.

2. NOAA Legal Counsel will provide a briefing on the new recusal regulations for Council members.

3. Receive a report on the implementation of emergency rules to protect Steller sea lions, review necessary actions for 1999 and review alternatives and options for implementation of additional or alternative measures in 2000.

4. Discuss progress on implementation of fishery management measures in 1999 required by the American Fisheries Act as well as discuss development of further amendments for 2000 and beyond. The Council will also review the disapproval of emergency rules by NMFS and consider a Council response.

5. Review of a discussion paper of proposed management measures for the Alaska halibut charterboat fleet, and review of proposals received by the Alaska Board of Fisheries for halibut local area management plans.

6. Receive status reports on the multi-species community development quota (CDQ) program, the individual fishing quota (IFQ) fee program, and the IFQ weighmaster program.

7. Review alternative management measures to reduce bycatch of seabirds in the groundfish fisheries.

8. Receive reports and discuss further development of issues related to ecosystems management and the gathering of social and economic data for fishery management actions.

9. Identify research priorities to forward to NMFS.

10. Groundfish amendments scheduled for action are as follows:

a. Final action on revisions to the prohibited species catch allocations for Bering Sea and Aleutian Islands (BSAI) chinook salmon.

b. Discussion of total catch measurement in the groundfish fisheries.

c. Final action on an amendment to address retention of demersal shelf rockfish in the Gulf of Alaska IFQ fisheries.

d. Final action on an amendment to the improved retention/utilization (IR/IU) program; review progress on report to Congress on IR/IU.

e. Receive status report on a pilot halibut avoidance program from the Vessel Bycatch Allowance/Halibut Mortality Avoidance Program Committee.

f. Discuss the differences between the Federal and state definitions of ''pelagic trawl'' and determine whether revisions are necessary.

11. Final action on license limitation program for the scallop fisheries off Alaska.

12. Progress report on a rebuilding plan for *bairdi* crab in the BSAI.

13. Review the overfishing definition for the Salmon Fishery Management Plan and determine appropriate action.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 7 working days prior to the meeting date.

Dated: January 12, 1999.

Richard W. Surdi,

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

[FR Doc. 99–1013 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 123198A]

Marine Mammals

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

ACTION: Receipt of application for amendment and notice of emergency issuance of permit amendment.

SUMMARY: Notice is hereby given that: the Southwest Fisheries Science Center, Honolulu Laboratory, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822–2396, has requested an amendment to scientific research Permit No. 848–1335; and the Permit has been amended according to the provisions of 50 CFR 216.33(e)(6).

DATES: Written or telefaxed comments must be received on or before February 16, 1999.

ADDRESSES: The amendment request, amended permit, and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Protected Species Program Manager, Pacific Islands Area Office, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2941).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, National Marine Fisheries Service, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of §§ 216.33(e)(6) and 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The Permit Holder is currently authorized to conduct population assessment, disease assessment (including health screening), recovery actions, and pelagic ecology studies of Hawaiian monk seals (*Monachus* schauinslandi) at all locations within the Hawaiian Archipelago and at Johnston Atoll, through May 31, 2002.

The Holder has now requested that the Permit be amended to: (1) authorize the taking of up to 100 additional Hawaiian monk seals for disease screening purposes; and (2) authorize the collection and export of blubber biopsies for toxicological assessment. This increased taking is necessary in order to allow urgently needed sampling and analyses of the monk seal population to assess the extent to which the population has been exposed to a morbillivirus. Given the severity of this pathogen and its known catastrophic impact on other marine mammal populations, the amendment has been issued on an emergency basis pursuant to 50 CFR 216.33(e)(6).

Issuance of this amended permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application and emergency permit amendment to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 7, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–1012 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.122298B]

Marine Mammals; File No. 116–1477

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Sea World, Inc., 7007 Sea World Drive, Orlando, Florida 32821–8097 has been issued a permit to take Hawaiian monk seals, *Monachus schauinslandi*, for scientific research and enhancement purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; and

Coordinator, Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On November 19, 1998, notice was published in the **Federal Register** (63 FR 64246) that a request for a scientific research and enhancement permit to take Hawaiian monk seals, *Monachus schauinslandi*, had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and

policies set forth in section 2 of the ESA.

Dated: January 8, 1999.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–1014 Filed 1–14–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Availability of Solicitation for Awards of Financial Assistance

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Availability of Solicitation Number DE–PS07–99ID13751—Metal Casting Industry of the Future.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office (ID) is seeking applications for cost-shared research and development of technologies which will enhance economic competitiveness, reduce energy consumption and reduce environmental impacts of the metal casting industry. The research is to address research priorities identified by the metal casting industry in the Metal Casting Industry Technology Roadmap. The Roadmap can be found at URL: *http://www.oit.doe.gov/metalcast/roadmap/roadmap.html.* Approximately $300,000 to $500,000 of funding will be available to initiate the research efforts and additional funding of up to $2,000,000 in Fiscal Year 2000 federal funds is expected to be available to fund the first year of selected research efforts. DOE anticipates making 5 to 10 cooperative agreement awards each with a duration of three years or less. A minimum 50% non-federal cost-share is required for research and development projects. Collaborations between industry, university, and National Laboratory participants are encouraged. The issuance date of Solicitation Number DE–PS07–99ID13751 is on or about January 11, 1999. The solicitation is available in its full text via the Internet at the following URL address: *http://www.id.doe.gov/doeid/PSD/proc-div.html.*

DATES: The deadline for receipt of pre-applications is February 4, 1999. The deadline for receipt of full applications is March 24, 1999.

ADDRESSES: Applications should be submitted to: Kara Twitchell, Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Kara Twitchell, Contract Specialist at *twitchkl@id.doe.gov,* or Linda Hallum, Contracting Officer at *hallumla@id.doe.gov*. Issued in Idaho Falls on January 6, 1999.

SUPPLEMENTARY INFORMATION: The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Michael L. Adams,

Acting Director, Procurement Services Division.

[FR Doc. 99–981 Filed 1–14–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

AGENCY: Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, App.2, and section 101–6.1015(a)(1), title 41, Code of Federal Regulations and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been renewed for a two-year period beginning in January 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel M. Samuel at (202) 586–3279.

SUPPLEMENTARY INFORMATION: The Panel will continue to provide advice to the Director of Energy Research on long-range planning and priorities in the national high energy physics program. The Secretary of Energy has determined that renewal of the Panel is essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Issued in Washington, DC, on January 12, 1999.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 99–982 Filed 1–14–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1543–001, et al.]

Duquesne Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 8, 1999.

Take notice that the following filings have been made with the Commission:

1. Duquesne Light Company

[Docket No. ER97–1543–001]

Take notice that on January 4, 1999, Duquesne Light Company (Duquesne) on behalf of Duquesne and Kentucky Utilities Company (KU), tendered for filing an arbitration award to replace the Stranded Cost Amendment contained in Duquesne's initial filing in the above-referenced docket. Duquesne sets forth its proposed accounting treatment for the stranded cost payment.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Central Montana Electric Power Cooperative, Inc. v. The Montana Power Company

[Docket No. EL99–24–000]

Take notice that on December 30, 1998, Central Montana Electric Power Cooperative, Inc. (Central Montana) tendered for filing a complaint, including direct testimony and exhibits, against the Montana Power Company (MPC) alleging that the delivered wholesale rates which MPC charges Central Montana are excessive, unjust and unreasonable, and should be reduced, pursuant to the provisions of Sections 205 and 206 of the Federal Power Act. Central Montana's complaint requests that the Commission institute a hearing under Section 206 of the Federal Power Act to determine the just and reasonable rates to be charged to Central Montana. Central Montana also requests that the Commission establish the earliest possible refund effective date under the provisions of Section 206 of the Federal Power Act, and that the Commission order refunds of all amounts in excess of just and reasonable rates under that Act.

Copies of Central Montana's complaint filing were served on representatives of Montana Power Company.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint should also be filed on or before February 8, 1999.

3. Municipal Energy Agency of Mississippi and Lafayette Utilities System v. Entergy Services, Inc.

[Docket No. EL99–25–000]

Take notice that on January 4, 1999, the Municipal Energy Agency of Mississippi and the Lafayette Utilities System filed a complaint against Entergy Services, Inc. The complaint concerns the 1998 redetermination of transmission rates under Entergy's OATT, and is filed pursuant to the rate redetermination procedures of the tariff and Section 206 of the Federal Power Act. The complaint alleges that the proposed rate redetermination is unjust and unreasonable. The complaint further seeks consolidation with ongoing dockets treating the same rate redetermination, specifically ER98–2910–000 and EL98–74–000.

Comment date: February 8, 1999, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before February 8, 1999.

4. Midwest Independent Transmission System Operator, Inc.; The Cincinnati Gas & Electric Company, et al.

[Docket No. ER98–1438–002, Docket No. EC98–24–000 (consolidated)]

Take notice that on December 31, 1998, the Midwest ISO Transmission Owners [1] tendered for filing revisions to the open access transmission tariff and related documents of the Midwest Independent Transmission System Operator, Inc., in compliance with the Commission's September 16, 1998 order in the proceedings captioned above *Midwest Independent Transmission System Operator, Inc.*, 84 FERC ¶ 61,231 (1998).

The Midwest ISO Transmission Owners state that copies of this filing have been served on each person designated on the official service list compiled by the Secretary in these proceedings.

Comment date: February 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

[1] The Midwest ISO Transmission Owners consist of Ameren (which includes Central Illinois Public Service Company and Union Electric Company), Cinergy (which includes PSI Energy and Cincinnati Gas & Electric Company); Commonwealth Edison, Hoosier Energy Rural Electric Cooperative, Illinois Power Company; Kentucky Utilities; Louisville Gas & Electric; Wabash Valley Power Association; Wisconsin Electric Power Company; and Central Illinois Light Company. In addition, Allegheny Energy and Duquesne Light Company has joined the Midwest ISO, contingent upon the consummation of their merger.

5. PP&L EnergyPlus Co.

[Docket No. ER98–4608–001]

Take notice that on January 4, 1999, PP&L EnergyPlus Co. (PP&L EnergyPlus), tendered for filing a compliance filing pursuant to Ordering Paragraph (A) of the Commission's order in PP&L EnergyPlus Co., 85 FERC ¶ 61,377 (1998). The compliance filing revises the Code of Conduct that was filed with PP&L EnergyPlus' Application for Authority to Sell Electric Energy and Capacity at Market-Based Rates and to Resell Transmission Rights, as amended on November 2, 1998.

Copies of this filing have been served upon all persons listed on the official service list complied by the Office of the Secretary in Docket No. ER98–4806–000.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Company

[Docket No. ER99–1040–000]

Take notice that on January 4, 1999, San Diego Gas & Electric Company tendered for filing a change in the Transmission Revenue Balancing Account Adjustment Rate set forth in its Transmission Owner Tariff as well as other changes that are also being submitted with this filing.

San Diego Gas & Electric Company states that these corrections do not change the TRBAA unit rate shown in the December 23, 1998, filing.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PP&L, Inc.

[Docket No. ER99–1102–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Kutztown (Kutztown).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to Borough of Kutztown, and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. PP&L, Inc.

[Docket No. ER99–1103–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Quakertown (Quakertown).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to Borough of Quakertown, and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER99–1104–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Blakely (Blakely).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to Borough of Blakely, and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PP&L, Inc.

[Docket No. ER99–1105–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Watsontown (Watsontown).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Watsontown and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PP&L, Inc.

[Docket No. ER99–1106–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Duncannon (Duncannon).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Duncannon and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PP&L, Inc.

[Docket No. ER99–1107–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for

filing an executed copy of a Power Supply Agreement with the Borough of Lehighton (Lehighton).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Lehighton and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. PP&L, Inc.

[Docket No. ER99–1108–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Perkasie (Perkasie).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Perkasie and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. PP&L, Inc.

[Docket No. ER99–1109–000]

Take notice that on December 31, 1998, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Schuylkill Haven (Schuylkill Haven).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Schuylkill Haven and the Pennsylvania Public Utilities Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. FirstEnergy Trading & Power Marketing, Inc.

[Docket No. ER99–1119–000]

Take notice that on December 31, 1998, FirstEnergy Trading & Power Marketing, Inc. (FTPM), tendered for filing a Power Sales Agreement and Confirmation Letter for the sale of 200 MW of capacity and associated energy to the FirstEnergy Operating Companies beginning on July 20, 1998 and ending on August 31, 1998. FTPM states that the filing is being made to comply with the filing requirements under Section 205(c) of the Federal Power Act with respect to the sale of power needed by the FirstEnergy Operating Companies to serve their customers during the summer of 1998.

FTPM has asked that the Power Sales Agreement and Confirmation Letter be permitted to become effective as of July 20, 1998.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER99–1120–000]

Take notice that on December 31, 1998, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement with FirstEnergy Services Corp., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Ohio Edison requests that the Commission waive the notice requirements and allow the Service Agreement to become effective on January 1, 1999.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER99–1121–000]

Take notice that on December 31, 1998, Ohio Edison Company tendered (Ohio Edison), tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with DTE Edison America, Inc., and Green Mountain Energy Resources under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Ohio Edison requests that the Commission waive the notice requirements and allow the Service Agreements to become effective on January 1, 1999.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Potomac Electric Power Company

[Docket No. ER99–1122–000]

Take notice that on December 31, 1998, Potomac Electric Power Company (Pepco), tendered for filing a new Agreement superseding its 1982 agreement for electric service to its full requirements customer, Southern Maryland Electric Cooperative, Inc. (Smeco), including reduced rates for the years 1999 through 2001. The superseding Pepco-Smeco electric service agreement is the result of extensive negotiations and is supported by both parties.

An effective date of January 1, 1999 for the revised rates and terms is requested, with waiver of notice.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Corporation

[Docket No. ER99–1123–000]

Take notice that on December 31, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Central Hudson Gas & Electric (CHG&E). This Transmission Service Agreement specifies that CHG&E has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and CHG&E to enter into separately scheduled transactions under which NMPC will provide transmission service for CHG&E as the parties may mutually agree.

NMPC requests an effective date of December 23, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and CHG&E.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Niagara Mohawk Power Corporation

[Docket No. ER99–1124–000]

Take notice that on December 31, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and PECO Energy Company—Power Team (PECO Energy). This Transmission Service Agreement specifies that PECO Energy has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and PECO Energy to enter into separately scheduled transactions under which NMPC will provide transmission service for PECO Energy as the parties may mutually agree.

NMPC requests an effective date of December 23, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PECO Energy.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. LG&E-Westmoreland Rensselaer

[Docket No. ER99–1125–000]

Take notice that on December 31, 1998, LG&E-Westmoreland Rensselaer (LWR), tendered for filing an Application for Order Accepting Rate Schedule for Power Sales at Market-Based Rates and Granting Waivers and Pre-Approvals of Certain Commission Regulations.

LWR requests that the Commission permit LG&E-Westmoreland Rensselaer Rate Schedule FERC No. 1, to become effective as of January 1, 1999.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Duke Energy Morro Bay LLC

[Docket No. ER99–1126–000]

Take notice that on December 31, 1998, Duke Energy Morro Bay LLC (DEMB), tendered for filing an Umbrella Service Agreement for Short-Term Sales establishing Duke Energy Trading and Marketing, L.L.C. (DETM) and Duke/Louis Dreyfus L.L.C. (D/LD), as a customer under DEMB's Rate Schedule No. 1.

DEMB requests an effective date of January 2, 1999, for the service agreement with DETM and an effective date of March 1, 1999, for the service agreement with D/LD.

DEMB states that a copy of the filing was served on DETM and D/LD.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Duke Energy Moss Landing LLC

[Docket No. ER99–1127–000]

Take notice that on December 31, 1998, Duke Energy Moss Landing LLC (DEML), tendered for filing an Umbrella Service Agreement for Short-Term Sales establishing Duke Energy Trading and Marketing, L.L.C. (DETM) and Duke/Louis Dreyfus L.L.C. (D/LD), as a customer under DEML's Rate Schedule No. 1.

DEML requests an effective date of January 2, 1999, for the service agreement with DETM and an effective date of March 1, 1999, for the service agreement with D/LD.

DEML states that a copy of the filing was served on DETM and D/LD.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Duke Energy Oakland LLC

[Docket No. ER99–1128–000]

Take notice that on December 31, 1998, Duke Energy Oakland LLC (DEO), tendered for filing service agreements establishing Duke Energy Trading and Marketing, L.L.C. (DETM) and Duke/Louis Dreyfus L.L.C. (D/LD), as a customer under DEO's Rate Schedule No. 1.

DEO requests an effective date of January 2, 1999, for the DETM service agreement and an effective date of March 1, 1999, for the service agreement with D/LD.

DEO states that a copy of the filing was served on DETM and D/LD.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Niagara Mohawk Power Corporation

[Docket No. ER99–1129–000]

Take notice that on December 31, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and PECO Energy Company—Power Team (PECO Energy). This Transmission Service Agreement specifies that PECO Energy has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and PECO Energy to enter into separately scheduled transactions under which NMPC will provide transmission service for PECO Energy as the parties may mutually agree.

NMPC requests an effective date of December 23, 1998. NMPC also requests waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PECO Energy.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. PacifiCorp

[Docket No. ER99–1130–000]

Take notice that on December 31, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, an umbrella Service Agreements Electrical District #2, Pinal County and Sierra Pacific Power Company under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

PacifiCorp requests that a waiver of prior notice be granted and that the Commission assign an effective date of January 4, 1999, for the Service Agreements.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. PacifiCorp

[Docket No. ER99–1131–000]

Take notice that on December 31, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with Merchant Energy Group of the Americas, Inc. (Merchant), under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to Merchant, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Duquesne Light Company

[Docket No. ER99–1132–000]

Take notice that on December 31, 1998, Duquesne Light Company (Duquesne), tendered for filing proposed changes to its Open Access Transmission Tariff (OATT) and for an order accepting its proposed changes for the purpose of implementing electric restructuring in Pennsylvania.

Duquesne has requested an effective date of January 1, 1999.

A copy of this filing was served on the Pennsylvania Public Utilities Commission and customers presently taking service under Duquesne's OATT.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. American Electric Power Service Corporation

[Docket No. ER99–1133–000]

Take notice that on January 4, 1999, the American Electric Power Service Corporation (AEPSC), tendered for filing a service agreement under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5.

AEPSC respectfully requests waiver of notice to permit the service agreement to be made effective for service on or after December 1, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Allegheny Energy, Inc.

[Docket No. ER99–1141–000]

Take notice that on December 31, 1998, Allegheny Energy, Inc. filed in accordance with Rule 602, in the above-referenced proceeding, three Agreements entered into between Allegheny Energy, Inc. and the City of Philippi, West Virginia, the City of New Martinsville, West Virginia and the Harrison Rural Electrification Association.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. PP&L, Inc.

[Docket No. ER99–1153–000]

Take notice that on January 4, 1999, PP&L, Inc. (PP&L), tendered for filing an executed copy of a Power Supply Agreement with the Borough of Catawissa (Catawissa).

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement.

PP&L states that copies of this filing have been supplied to the Borough of Catawissa and the Pennsylvania Public Utilities Commission.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Delmarva Power & Light Company

[Docket No. ER99–1154–000]

Take notice that on January 4, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with Cinergy Capital & Trading, Inc., under Delmarva's market rate sales tariff.

Comment date: January 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Storm Lake Power Partners I LLC

[Docket No. ER99–1155–000]

Take notice that on January 4, 1999, Storm Lake Power Partners I LLC (Storm Lake I), tendered for filing a proposed change to its Rate Schedule FERC No. 1. Storm Lake I is developing a wind-powered generation facility near Alta, Iowa. Following construction of the facility, Storm Lake I will make sales of capacity and energy at market-based rates to MidAmerican Energy Company (MidAmerican) pursuant to an Alternative Energy Production Purchase Agreement (the PPA), which was accepted for filing by the Commission.

The proposed change to the PPA corrects certain typo-graphical, reference and other technical errors in the PPA; however, it does not affect the rate for sales of energy or capacity under the PPA.

Copies of the filing were served upon the official service list and MidAmerican, and Storm Lake I's jurisdictional customer.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Michigan Gas Exchange, L.L.C.

[Docket No. ER98–1156–000]

Take notice that on January 4, 1999, Michigan Gas Exchange, L.L.C. (MGE), tendered for filing its petition to the Commission for acceptance of MGE's Rate Schedule FERC Tariff No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market based rates; and waiver of certain Commission Regulations.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Illinois Power Company

[Docket No. ER99–1157–000]

Take notice that on January 4, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Kentucky Utilities will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of December 15, 1998.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Public Service Company of New Hampshire

[Docket No. ER99–1158–000]

Take notice that on December 30, 1998, Public Service Company of New Hampshire (PSNH) tendered for filing an information statement concerning PSNH's fuel and purchased power adjustment clause charges and credits for the following periods:

January 1, 1998 to June 30, 1998
July 1, 1998 to December 31, 1998
January 1, 1999 to June 30, 1999

This information statement is submitted pursuant to a settlement agreement approved by the Commission in *Publ Serv. Co. of New Hampshire,* 57 FERC ¶ 61, 068 (1991), and a settlement stipulation approved by the Commission by Letter Order in Docket Nos. ER91–143–000, ER91–235–000 and EL91–15–000, dated July 22, 1992.

Copies of this filing were served upon the Town of Ashland Electric Company, the New Hampton Village Precinct, and the New Hampshire Electric Cooperative, Inc.

Comment date: January 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Maine Electric Power Company

[Docket No. ER99–1159–000]

Take notice that on January 4, 1999, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Short Term Firm Point-to-Point Transmission Service entered into with Southern Company Energy Marketing L.P. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Wisconsin Electric Power Company

[Docket No. ER99–1160–000]

Take notice that on January 4, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an amendment of its Open Access Transmission Tariff (Wisconsin Energy Corporation Operating Companies FERC Electric Tariff, Original Volume No. 1) to explicitly incorporate the transmission loading relief (TLR), procedures developed by the North American Electric Reliability Council (NERC) approved by the Commission in Docket No. EL99–52–000.

Wisconsin Electric requests an effective date coincident with its filing, and therefore respectfully requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Wisconsin Electric's transmission service customers, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: January 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. Bangor Hydro-Electric Company

[Docket Nos. ER99–1166–000 and EC99–23–000]

Take notice that on January 5, 1999, Bangor Hydro-Electric Company (Bangor) tendered for filing an

application under Sections 203 and 205 of the Federal Power Act in connection with the proposed sale of generation assets by Bangor to PP&L Global, Inc. or its wholly owned assignee, Penobscot Hydro, L.L.C.. Pursuant to Section 203 of the Federal Power Act, l6 U.S.C. § 824b, Bangor requests Commission approval of the sale of minimal jurisdictional facilities. Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, Bangor also seeks approval of certain agreements, including an interconnection agreement, made in connection with the sale of generation assets.

Comment date: February 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–978 Filed 1–14–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–102–000]

Wyoming Interstate Company, Ltd.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Medicine Bow Lateral Project, Request for Comments on Environmental issues and Notice of Public Scoping Meetings and Site Visit

January 11, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities, about 143 miles of 24-inch-diameter pipeline and about 7,200 horsepower (hp) of compression, proposed in the Medicine Bow Lateral Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the environmental impact statement (EIS) is necessary and whether the project is in the public convenience and necessity.

The application and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions.

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]

Additionally, with this notice we are asking Federal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their agencies' responsibilities.

Summary of the Proposed Project

Wyoming Interstate Company, Ltd. (WIC) proposes to build new pipeline and compression facilities to increase the transportation capacity of its current system in Colorado and Wyoming. The new facilities would enable WIC to transport an additional 269 million cubic feet of natural gas per day from the Powder River Basin. Specifically, WIC seeks Commission authority to construct and operate the following facilities:

- 143 miles of 24-inch-diameter pipeline extending from WIC's existing mainline in Weld County, Colorado, to Converse County, Wyoming, where it would interconnect with nonjurisdictional gathering facilities;
- A new compressor station in Converse County, Wyoming, which would consist of one turbine-driven, centrifugal compressor unit rated at either 6,937 or 7,200 hp (depending on the exact model finally chosen);
- Two new meter stations in Converse County, Wyoming; and
- A new check meter and side valve in Weld County, Colorado, at the interconnection with WIC's mainline, about 7.5 miles west of WIC's existing Cheyenne Compressor Station.

The general location of the project facilities is shown in appendix 3.

Land Requirements for Construction

Construction of the proposed facilities would require about 1,953 acres of land. Following construction, about 9 acres would be maintained as new aboveground facility sites, and 867 acres would be maintained as permanent right-of-way for the pipeline. The remaining 1,077 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 and whether an EIS is necessary. 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

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[1] Wyoming Interstate Company, Ltd.'s application was filed with the Commission on December 3, 1998 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.

proposed project under these general headings:

- Geology and soils
- Water resources, fisheries and wetlands
- Vegetation and wildlife
- Endangered and threatened
- Land use
- Cultural resources
- Air quality and noise
- Public safety

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 pages 4 and 5 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 WIC. This preliminary list of issues may be changed based on your comments and our analysis.

- Twenty-five perennial streams between 10 and 100 feet wide, and 59 wetlands would be crossed.
- Five federally listed endangered or threatened species may occur in the proposed project area.
- Portions of the Oregon Trail, which is listed as a National Historic Landmark, would be crossed.
- About 5.2 miles of agricultural land would be crossed, which is mostly hay fields and pasture.
- About 25 miles of public land would be crossed, of which almost 8 miles is administered by the U.S. Bureau of Land Management.

Also, WIC's proposes to interconnect in Converse County with the nonjurisdictional gathering facilities of Western Gas Resources, Inc. and Devon Energy Corporation. Although these facilities are not under the jurisdiction of the FERC, they will be discussed in the EA.

Public Participation and Scoping Meetings

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1.
- Reference Docket No. CP99–102–000; and
- Mail your comments so that they will be received in Washington, DC on or before February 12, 1999.

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meetings the FERC will conduct in the project area. The locations and times for these meetings are listed below.

Schedule of Public Scoping Meetings for the WIC Medicine Bow Lateral Project

Tuesday, January 26, 1999, 7:00 pm—Douglas, Wyoming, Best Western Douglas Inn & Conference Center, 1450 Riverbend Dr., 307–358–9790

Wednesday, January 27, 1999, 7:00 pm—Wheatland, Wyoming, Platte County Fairgrounds, 4–H Building, 59 Antelope Gap Rd., 307–322–9504

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. WIC representatives will be present at the scoping meetings to describe their proposal. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of each meeting will be made so that your comments will be accurately recorded.

On January 27, 1999, we will also be conducting a limited site visit to the project area. The site visit will be an aerial inspection, by helicopter, of the proposed route and the currently identified alternative routes. If weather conditions preclude an overflight, we will attempt to conduct the inspection by automobile (locations to be determined). Anyone interested in participating in the site visit may contact the Commission's Office of External Affairs identified at the end of this notice for more details and must provide their own transportation.

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 2). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222. Access to the texts of formal documents issued by the Commission with regard to this docket, such as orders and notices, is also available on the FERC website using the ''CIPS'' link. For assistance

with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 99–977 Filed 1–14–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6221–7]

Notice of Oxygenate Use in Gasoline Panel Meeting

SUMMARY: On November 30, 1998, U.S. Environmental Protection Agency Administrator Carol M. Browner announced the creation of a blue-ribbon panel of leading experts from the public health and scientific communities, automotive fuels industry, water utilities, and local and State government to review the important issues posed by the use of MTBE and other oxygenates in gasoline. EPA created the panel to gain a better understanding of the public health concerns raised by the discovery of MTBE in some water supplies. The panel will be chaired by Mr. Daniel Greenbaum, President of the Health Effects Institute (HEI) of Cambridge, Massachusetts, and Mr. Robert Perciasepe, Assistant Administrator for Air and Radiation, US EPA.

This notice announces the time and place for the first meeting of the panel.

DATES: The blue-ribbon panel reviewing the use of oxygenates in gasoline will conduct its first meeting on Friday, January 22, 1999, in Washington DC beginning at 8:30 a.m.

ADDRESSES: The meeting will be held from 8:30 a.m.–5:00 p.m. at the Marriott Crystal City, 1999 Jefferson Davis Hwy, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Karen Smith at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, D.C. 20460, (202) 564–9674, or John Brophy at (202) 564–9068.

SUPPLEMENTARY INFORMATION: This will be the first of several meetings at locations around the country to hear from regional and national experts on the facts concerning oxygenate use in fuel. In addition to invited presentations, the panel has set aside time for public comment. A sign-up sheet will be available at the registration table the morning of the meeting and any person desiring to make a brief statement should sign-up by 11:00 a.m. These statements will be scheduled on a first come, first serve basis and may be limited in length to allow for participation by all parties. The panel will also be accepting written submissions. Written submissions can be mailed to US EPA, 401 M Street, SW, Mail Code 6406J (Attn: Blue-Ribbon Panel), Washington, DC 20460.

Dated: January 13, 1999.

Michael G. Shields,

Acting Director, Office of Mobile Sources.

[FR Doc. 99–1106 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5498–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed January 04, 1999 Through January 08, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990000, FINAL EIS, AFS, UT, South Spruce Ecosystem Rehabilitation Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron and Kane Counties, UT, Due: February 15, 1999, Contact: Phillip G. Eisenhauer (435) 865–3200.

EIS No. 990001, DRAFT EIS, AFS, ID, St. Joe Ranger District Noxious Weed Control Project, Implementation, Proposal from Control Noxious Weeds on 131 Sites, Idaho Panhandle National Forests, St. Joe Ranger District, Benewah, Latah and Shoshone Counties, Idaho, Due: March 01, 1999, Contact: Dennis Griffith (208) 245–2531.

EIS No. 990002, DRAFT EIS, DOE, MN, Snake River Watershed Plan, Watershed Protection and Flood Prevention, NPDES Permit and COE Section 404 Permit, Marshall Pennington and Polk Counties, MN, Due: March 01, 1999, Contact: Vic Ruhland (612) 602–7900.

EIS No. 990003, FINAL SUPPLEMENT, AFS, ID, Thompson Creek Molybdenum Project, Cyprus Mines Corporation, Custer County, ID, Due: February 15, 1999, Contact: Tom Buchta (801) 625–5663.

EIS No. 990004, DRAFT EIS, BLM, CO, Yankee Gulch Sodium Minerals Project, To Produce Sodium Products, Piceance Basin, Right-of-Way Permit and COE Section 404 Permit, Rio Blanch County, CO, Due: March 08, 1999, Contact: Larry Shutts (970) 878–3601.

EIS No. 990005, FINAL EIS, NOA, Monkfish Fishery Regulations Northeast Multispecies Fishery (FMP), Fishery Management Plan, Amendment 9, Implementation, Exclusive Economic Zone, off the New England and Mid-Atlantic Coast, Due: February 15, 1999, Contact: Kathi Rodrigues (978) 281–9300.

EIS No. 990006, FINAL EIS, COE, Santa Maria and Sisquoc Rivers Specific Plan, Mining and Reclamation Plans, (MRPs), Coast Rock Site and S.P. Milling Site, Conditional Use Permits, Approval of Reclamation Plans, and Section 404 Permits, Santa Barbara and San Luis Obispo County, CA, Due: February 15, 1999, Contact: Ms. Tiffany Welch (805) 641–2935.

EIS No. 990007, DRAFT SUPPLEMENT, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Additional Information on Soils and Water Quality, Grand Mesa, Uncompahgre and Gunnison National Forests, Colibran Ranger District, Mesa County, CO, Due: March 05, 1999, Contact: Pam Bode (970) 641–0471.

Dated: January 12, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–1016 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5498–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 28, 1998 through January 01, 1999 pursuant to the Environmental Review

Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (62 FR 17856).

Draft EISs

ERP No. D–AFS–L65311–ID Rating EC2, North Fork St. Joe River Project, Implementation, Idaho Panhandles National Forest, St. Joe Ranger District, Shoshone County, ID.

Summary: EPA expressed environmental concerns. EPA requested

more information to ensure that antidegradation requirements for water quality will be met, to discuss project impact to health ecosystem, and to further address cumulative impacts of this and other projects in the area.

ERP No. D–COE–L03008–AK Rating EO2, Beaufort Sea Oil and Gas Development Northstar Project, Implementation, NPDES Permit, Sea Island, Alaskan Beaufort Sea, Offshore Marine Environment and Onshore Northslope of Alaskan Coastal Plain, AK.

Summary: EPA expressed environmental objections to the proposed Northstar project which were related to the risks of leaks and spills associated with the use of undersea pipelines in the Beaufort Sea, the technological/logistical difficulties in responding to oil spills, and the extent to which issues and concerns of the Inupiats Eskimoes have been addressed in the development of the project and the EIS. EPA believes that further evaluation of double-walled undersea pipeline option and the Northstar Oil Discharges Prevention and Contingency Plan is necessary, and that further development of the project and EIS should be conducted in consultation with the Inupiats to ensure that their issues are addressed in a manner consistent with Executive Orders 12898 and 13084.

ERP No. D–FHW–G40151–TX Rating LO, US–190 Corridor from FM2657 to the East City Limits of Copperas Cove, Transportation Improvements, Major Investment Study, Coryell and Lampasas Counties, TX.

Summary: EPA had no objection to the selection of the preferred alternative, Alternative G, as described in the draft EIS.

ERP No. DA–COE–K32023–HI Rating EO2, Ma'aLaea Harbor Improvements for Light-Draft-Vessels, Entrance Channel Realignment and Breakwater Modification, Additional Information, Island of Maui, Maui County, HI.

Summary: EPA expressed environmental objections related to water quality and Clean Water Act Section 404 issues. The SDEIS showed exceedances in water quality standards for turbidity during construction and project operation due to increased turbulence caused by additional vessel traffic from the 130 new berths. EPA believes that the Corps should ensure that there are mechanisms in place to maintain EPA-approved Water Quality Standards. EPA asked that the Corps' final report to Congress on fiscal authorization not proceed until there are satisfactory assurances from the State that onshore sewage improvements would be put into place.

Final EISs

ERP No. F–AFS–K65272–CA, Chico Genetic Resource Center for Pest Management Program, Implementation, Mendocino National Forest, Willow, Butte County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65160–ID, North Round Valley Timber Sales and Road Construction, Implementation, Payette National Forest, New Meadows Ranger District, Adams County, ID.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–E40761–NC, US 64 Bypass Transportation Improvements Project, from I–440 to US 64 west of Wendell and Eastern Wake Expressway from existing US 64 to NC–1007 (Poole Road), Funding and COE Section 404 Permit, Wake County, NC.

Summary: EPA found the document generally addressed the agency's comments on the draft EIS. However, lack of coordinated multi-modal transportation planning was noted.

Dated: January 12, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–1017 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00254; FRL–6041–6]

Development of Voluntary Consensus Standards for Environmentally Preferable Goods and Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In association with its efforts to implement Presidential Executive Order 12873, ''Federal Acquisition, Recycling and Waste Prevention,'' and Executive Order 13101, ''Greening the Government Through Waste Prevention, Recycling and Federal Acquisition,'' EPA is interested in working with non-governmental standards developers to promote the development of voluntary consensus standards for environmentally preferable goods and services. EPA is seeking opinions and comments on the availability of using voluntary consensus standards to implement the President's Order. The purpose of this notice is to help EPA determine the level of interest among standards developers in the development of environmental attributes and associated voluntary standards for specific product categories. EPA is seeking comments about what types of markets are most suited to incorporation of environmentally preferable products. EPA also seeks to gather information on the level of activity and expertise already available through standard setting organizations for determining environmental preferability in specific product categories and comment on whether EPA should adopt those standards.

DATES: Comments must be postmarked by March 31, 1999.

ADDRESSES: Each comment must bear the docket control number ''OPPTS–00254.'' 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.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.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: Lena Ferris, Pollution Prevention Division (7409), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20450, Telephone: (202) 260–2237, or e-mail: ferris.lena@epa.gov

SUPPLEMENTARY INFORMATION:

I. Background

EPA is seeking general comments on the issues mentioned in the ''SUMMARY'' statement above. EPA is particularly interested in comments from persons who are already actively involved in voluntary standards development or if you are considering establishing a program for developing voluntary standards incorporating environmental attributes for products or services, please respond to the questions addressed and send all information, postmarked no later then March 31, 1999, to the docket listed under the ''ADDRESSES'' section above. All comments will be accepted and considered.

To help EPA determine the level of interest among standards developers in the development of environmental attributes and associated voluntary standards for specific product categories and services, please provide responses to the following questions.

1. The name, address, and contact information for the organization.

2. Does the organization develop standards for specific business or industry sectors, e.g., automotive, telecommunications, etc., or does it develop standards in all areas?

3. Does the organization operate under procedures set forth by the American National Standards Institute (ANSI) or do you have other written procedures that you use for standards development? If available, please provide a copy.

4. Does the organization currently have, or plan to have, standards development activities focusing on, or specifically integrating, environmental attributes as part of the scope of the standard(s)?

5. Does the organization do product certification?

6. Does the organization typically engage in product attribute development as well as standards development? If so, what kinds of products are generally involved?

7. Do members of government departments or agencies participate in your standards development activities? If so, are there any members from regulatory agencies or departments?

8. Has the organization done any assessment of the market needs for environmentally preferable products? If so, and the information is available, what is your assessment of product categories and/or market sectors where the interest is likely to be high for environmentally related standards?

II. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under docket control number ''OPPTS–00254 '' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPPTS–00254.'' Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: December 23, 1998.

William H. Sanders, III

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 99–1027 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6220–7]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; Announcement of Proposal Deadline for the Competition for the 1999 Brownfields Cleanup Revolving Loan Fund Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for the 1999 Brownfields Cleanup Revolving Loan Fund Pilots on January 15, 1999. The brownfields cleanup revolving loan fund pilots (each funded up to $500,000) test cleanup and redevelopment planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select up to 63 additional brownfields cleanup revolving loan fund pilots by May 1999. The deadline for new proposals for the 1999 brownfields revolving loan fund pilots is March 8, 1999. Proposals must be postmarked by March 8, 1999, and sent to U.S. EPA Headquarters. In addition, duplicate copies of the proposal must also be submitted to the appropriate U.S. EPA Regional Office, ATTN: Brownfields Coordinator.

The Brownfields Cleanup Revolving Loan Fund pilot proposals are selected on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised application booklet The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund (January 1999).

DATES: This action is effective as of January 15, 1999. All proposals must be postmarked or sent to U.S. EPA Headquarters and a duplicate copy sent to the appropriate U.S. EPA Regional Office via registered or tracked mail no later than March 8, 1999.

ADDRESSES: BCRLF guidelines can be obtained by calling the Superfund Hotline at the following numbers: Washington, DC Metro Area at 703–412–9810, Outside Washington, DC Metro at 1–800–424–9346, TDD for the Hearing Impaired at 1–800–553–7672.

Copies of the Proposal Guidelines for Brownfields Cleanup Revolving Loan Fund are available via the Internet:

http://www.epa.gov/brownfields/

FOR FURTHER INFORMATION CONTACT: The U.S. EPA's Office of Solid Waste and Emergency Response, Outreach and Special Projects Staff, Barbara Bassuener (202) 260–9347 or Jennifer Millett (202) 260–6454.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative is designed to empower states, local governments, communities, and other stakeholders involved in economic redevelopment to

work together in a timely manner to prevent, assess, safely cleanup, and sustainably reuse brownfields. As part of this Initiative, EPA has awarded cooperative agreements to States (including U.S. territories), political subdivisions (including cities, towns, counties), and Indian tribes to capitalize Brownfields Cleanup Revolving Loan Fund pilots. The purpose of these pilots is to test brownfields cleanup revolving loan fund models that direct special efforts toward facilitating coordinated public and private brownfields cleanup efforts at the federal, state, and local levels.

In fiscal year 1999, the EPA expects to select up to 63 new BCRLF pilots to be funded up to $500,000 per pilot by the end of June 1999.

Eligible entities for FY 1999 BCRLF pilots, as in previous years, will be entities that have been awarded Brownfields Assessment Demonstration Pilots prior to FY99. In addition, political subdivisions with jurisdiction over sites that have either (1) been the subject of a targeted brownfields assessment (formerly called targeted site assessments), or (2) been selected by the U.S. EPA prior to January 1, 1999 to be the subject of a targeted brownfields assessment, are also eligible for a single BCRLF pilot award. BCRLF pilot proposals do not have to be limited to sites identified, characterized, or assessed under a previously awarded assessment pilot or targeted brownfields assessment.

Proposals from coalitions, formed among the eligible entities, are permitted to apply, but a single eligible entity must be identified as the legal recipient. Additionally, a letter of support from each coalition member must be included as an attachment.

Eligible entities must demonstrate through their proposal: (1) An ability to manage a revolving loan fund and environmental cleanups; (2) a need for cleanup funds; (3) commitment to creative leveraging of EPA funds with public-private partnerships and in-kind services; and (4) a clear plan for sustaining the environmental protection and related economic development activities initiated through the BCRLF program. The eligible entities must meet EPA's threshold and evaluation criteria. There is no guarantee of an award. Also, the size of the awards may vary (for example, from $50,000 to $500,000), depending on the proposal's responses to the evaluation criteria.

Funding for the brownfields cleanup revolving loan fund pilots is authorized under section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1).

Submission to Congress and the General Accounting Office

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 action 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Date Signed: January 8, 1999.

Approved:

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 99–1002 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64039; FLR–6056–5]

Isofenphos; Receipt of Request to Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt to Cancel Registrations.

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 its receipt of requests for amendment by Bayer Corporation, the sole U.S. registrant of the insecticide isofenphos, to terminate their registrations for all products containing isofenphos. This notice describes the Agency's current intention to grant Bayer Corporation's request for cancellation of all product registrations for the organophosphate isofenphos. It further provides an opportunity for the public to provide comment on the pending cancellation. Finally, this notice describes the terms and conditions under which the Agency intends to allow existing stocks to be sold, distributed, and/or used if the cancellations take effect.

DATES: In order to be considered, public comment on this notice must be received by March 16, 1999. Unless the cancellation request is withdrawn or adverse comments are received, the Agency intends to publish a final cancellation notice in the **Federal Register** on or about March 16, 1999, subject to the existing stocks provision specified herein.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver 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 Unit V of this document. No Confidential Business Information (CBI) 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). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is 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: By mail: Philip Poli, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Reregistration Branch 3, Crystal Mall #2, 6th floor, 1921 Jefferson Davis Highway, Arlington, VA; (703) 308–8038; e-mail: poli.philip@epamail.epa.gov.

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 canceled or amended. FIFRA 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 EPA Administrator may approve or deny the request consistent

with the provisions established pursuant to section 6(f)(1).

On December 11, 1998 Bayer Corporation transmitted a letter to the Agency requesting a phased cancellation of all their isofenphos product registrations. The Agency is providing a 60–day comment period, during which the public may submit comments concerning this action. If any current registrant of isofenphos notifies the Agency during the 60–day comment period of an agreement to transfer one or more of Bayer's registrations, EPA will not issue the cancellation order provided that the following conditions are met. Within 30 days of notifying the Agency of its intention to transfer a registration, a request for transfer of registration must be submitted to the Agency in accordance with 40 CFR 152.135. Once all required documentation have been submitted, the Agency will notify the transferor and transferee of its approval. Thereafter, the transferee will be regarded as the registrant for all purposes under FIFRA. The new registrant or transferee would be responsible for ensuring all data requirements are satisfied including all outstanding requirements consistent with established deadlines since Bayer Corporation has outstanding studies which are approaching the required due date.

The Agency will proceed with the cancellation of these isofenphos products according to the scheduled dates within unless the request for voluntary cancellation is withdrawn by Bayer Corporation, a registration is transferred, or substantive comments are received from the public which cause the Agency to reconsider its approach to canceling the Bayer Corporation isofenphos registrations. If the Agency grants some or all of the request for voluntary cancellation, it will publish a final cancellation order in the **Federal Register** canceling some or all registrations of isofenphos. Once an active ingredient is canceled, any person wishing to bring the pesticide back on the market would need to apply to EPA for a ''new chemical'' registration. Such a registration generally would not be approved until all applicable data requirements are satisfied.

II. Background

Isofenphos is the common name for an insecticide of the organophosphate class; its trade name is Oftanol. The chemical name for isofenphos is 1-methylethyl 2-[ethoxy[(1-methylethyl)-amino]-phosphinothioyl]-oxy]ben-zoate. Bayer Corporation is the sole technical manufacturer of isofenphos and manufactures the technical material overseas. Isofenphos is presently registered in the United States for use on turf and ornamentals for control of white grubs and molecrickets, although only turf use products are currently being sold. Most residential use is by lawn care professionals. There are no current registered uses on food crops in the United States, and all tolerances have been revoked. The Agency published a notice in the **Federal Register** of Monday, October 26, 1998 revoking the food use tolerances for isofenphos (63 FR 57067)(6035–8).

III. Voluntary Cancellation Request

Bayer Corporation requested voluntary phased cancellation of all its product registrations containing the active ingredient isofenphos in a letter to the Agency dated December 11, 1998. In addition to declining sales and diminishing use, Bayer Corporation cited the availability of registered alternatives and the introduction of new and advanced ingredients for grub and mole cricket control as contributing to its decision to seek voluntary cancellation. The company further concluded that the expenditures necessary to generate the outstanding data required to fulfill reregistration program requirements could not be recovered, and that such studies would likely not be complete until after the projected sales ''life'' of the product. The registrations for which Bayer has requested product cancellation are listed below in the following Table.

TABLE —ISOFENPHOS REGISTRATIONS WITH REQUESTS TO CANCEL PESTICIDE REGISTRATIONS

Registration Number	Product Name	Action Requested
EPA Reg. No. 3125–435	Oftanol 5% Granular Turf & Ornamental Insecticide	Cancel Registration
EPA Reg. No. 3125–330	Oftanol 5% Granular Insecticide	Cancel Registration
EPA Reg. No. 3125–331	Oftanol 1.5% Granular Insecticide	Cancel Registration
EPA Reg. No. 3125–350	Lawn Food and Insecticide	Cancel Registration
EPA Reg. No. 3125–342	Oftanol 2 Insecticide	Cancel Registration effective September 30, 1999
EPA Reg. No. 3125–326	Oftanol Technical Action Requested	Cancel Registration effective December 31, 1999

According to Bayer's request, cancellation of Bayer Corporation's isofenphos registrations would be accomplished in three steps over a 12–month period. First, if the Agency publishes a final cancellation order as proposed by this notice, the following product registrations would be immediately canceled:

- Oftanol 5% Granular Turf and Ornamental Insecticide, EPA Reg. No. 3125–435
- Oftanol 5% Granular Insecticide, EPA Reg. No. 3125–330
- Oftanol 1.5% Granular Insecticide, EPA Reg. No. 3125–331
- Lawn Food and Insecticide, EPA Reg. No. 3125–350

Second, Bayer's product Oftanol 2 Insecticide (EPA Reg. No. 3125–342) would be canceled on September 30, 1999. Bayer requested an existing stocks provision that would allow Bayer until September 30, 2000 to deplete any remaining inventory of Oftanol 2 Insecticide. Third, the cancellation of Oftanol technical will become effective on December 31, 1999. Bayer will discontinue any further sales and/or distribution of Oftanol technical as of this date.

Further, because sales of isofenphos have been steadily declining since 1994, Bayer has agreed to limit the sale of Oftanol Technical in 1999 to the level of current 1998 sales. Finally, Bayer also stated in its December 11, 1998 letter to the Agency that they will notify formulator customers of the schedule for discontinuance of their isofenphos product registration ''to give them adequate transition time to develop or identify alterative products.''

The Agency has reviewed Bayer Corporation's proposed phased cancellation and agrees with the basic tenets of the approach which have been described above. To better involve the public in the implementation of the Food Quality Protection Act of 1996 (FQPA), the Agency and the United States Department of Agriculture

(USDA) established the Tolerance Reassessment Advisory Committee (TRAC) on April 30, 1998. The TRAC was established as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. It provides a forum for a broad range of interest groups to provide input on a variety of matters including tolerance reassessment and reregistration. The organophosphate pesticides' tolerance reassessment and reregistration eligibility decision activities are being brokered through the TRAC process.

To ensure the public has full access to the documents and analysis providing the basis for its regulatory decision making, the Agency has established public dockets for the organophosphate pesticides currently undergoing tolerance reassessment and reregistration. The public dockets include preliminary human health risk assessments and where available, ecological risk assessments that have been conducted by the Agency. Registrants' corrections to these assessments, rebuttal comments, and other public comments on the Agency's risk assessments have been docketed also.

Isofenphos, is in the first group of 9 of a total of 43 organophosphates that are slated to have tolerance reassessment and reregistration eligibility decision made via the TRAC's enhanced stakeholder involvement process. However, since the sole technical registrant, Bayer Corporation has elected to voluntarily cancel its existing registrations on a schedule that the Agency believes is consistent with the scheduling goals fundamental to the TRAC process, the Agency is proposing to cancel Bayer's registrations consistent with the terms and conditions described in this notice. The information currently available to the Agency on the human health environmental consequences of allowing Bayer Corporation's proposed phased cancellation of isofenphos products is not expected to trigger imminent hazard or other unreasonable adverse effect concerns. Moreover, the Agency believes that given the declining market for isofenphos, it is unlikely distribution, sale, or use of existing stocks of a relatively small volume of canceled products would pose significant human health or environmental risks. The public is invited to provide comment on this Agency action and is encouraged to consider all documentation and risk assessments currently available in providing those comments.

IV. Existing Stocks

If the Agency grants any or all of the requested cancellations, it is likely that the Agency will establish an existing stocks provision consistent with the following schedule. Bayer Corporation requested in its December 11, 1998 voluntary cancellation letter a 1–year existing stocks provision for its end-use product Oftanol 2 Insecticide (EPA Reg. No. 3125–342). The effective date of cancellation for this product will be September 30, 1999. Any remaining product inventory will be depleted subject to a 1–year existing stock provision, whereby Bayer Corporation may sell and distribute all remaining inventory until September 30, 2000.

EPA will continue to permit, after September 30, 2000 (EPA Reg. No. 3125–342) and December 31, 1999 (EPA Reg. No. 3125–326), the sale, distribution and use of existing stocks of product containing isofenphos already in the channels of distribution by persons other than the registrant or supplemental registrants, (i.e., stocks already in the hands of dealers or users). EPA will also continue to permit the sale, distribution and use of existing stocks of the following product registrations already in the hands of dealers or users:

- Oftanol 5% Granular Turf and Ornamental Insecticide, EPA Reg. No. 3125–435
- Oftanol 5% Granular Insecticide, EPA Reg. No. 3125–330
- Oftanol 1.5% Granular Insecticide, EPA Reg. No. 3125–331
- Lawn Food and Insecticide, EPA Reg. No. 3125–350

EPA believes it is appropriate to allow sale and use until stocks already in the channels of distribution are exhausted rather than impose a time limit on use of existing stocks, so that persons who have legally purchased stocks of isofenphos will be able to sell or use those stocks without violating the cancellation order (although the Agency may place restrictions if such stocks are not exhausted in a reasonable time). Continued use of existing stocks of a canceled product until such stocks are exhausted would likely be permitted, provided that such use is consistent with the previously-approved labeling for the product.

V. Public Record and Electronic Submission of Comments

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number [OPP–64039] (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 rulemaking record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–64039]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Lists of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests, Product registrations

Dated: January 7, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–1024 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34169; FRL–6056–9]

Increasing Transparency For the Tolerance Reassessment Process; Availability of Preliminary Risk Assessments for Seven Organophosphates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of the Environmental Protection Agency's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary human health risk assessment and related documents for chlorethoxyfos

and tetrachlorvinphos, the ecological risk assessment and related documents for azinphos methyl, and the human health and ecological risk assessments and related documents for ethyl parathion, methidathion, phosmet, and propetemphos. This notice also starts a 60-day public comment period for the preliminary risk assessments. Comments are to be limited to issues directly associated with the seven organophosphates that have risk assessments placed in the docket and should be limited to issues raised in those documents. By allowing access and opportunity for comment on the preliminary risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure our decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments will be appropriate for some, if not all, of these seven pesticides. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Written comments on these assessments must be submitted on or before March 16, 1999.

ADDRESSES: By mail, submit written comments in triplicate 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, deliver comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket without prior notice.

To request a copy of any of the preliminary risk assessments and related documents listed in this notice, contact or visit the OPP Pesticide Docket at the addresses given in this unit, or call (703) 305–5805. The Docket staff will inform callers as to which of the documents can be sent directly from the docket and which need to be requested from the Freedom of Information Act Office due to their bulk. The public docket is available for public inspection in Rm. 119 at the Virginia address given in this unit from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically to: opp-docket@epa.gov. Follow the instructions under Unit II. of this document. No CBI should be submitted through e-mail. Copies of the preliminary risk assessments for the seven organophosphate pesticides may also be accessed at: http: www.epa.gov/oppsrrd1/op.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: 703-308-8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is making available preliminary risk assessments that have been developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the FFDCA as amended by the FQPA. Available in the individual pesticide dockets are the Agency's preliminary human health assessment for chlorethoxyfos and tetrachlorvinphos, the ecological effects risk assessment for azinphos methyl, and the human health and ecological effects risk assessments for the following four organophosphate pesticides: ethyl parathion, methidathion, phosmet, and propetemphos.

Included in the individual pesticide dockets are the Agency's preliminary risk assessments. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for the seven organophosphate pesticides listed in this notice. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments will be appropriate for some, if not all, of these seven pesticides. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

As the preliminary risk assessments for the remaining organophosphate pesticides are completed and registrants are given a 30-day review period to identify possible computational or other clear errors in the risk assessment, these risk assessments and registrant responses will be placed in the individual pesticide dockets. A notice of availability for subsequent assessments will appear in the **Federal Register** .

To provide users with the most recent information on the seven organophosphates, EPA has also included in each docket the Agency's July 7, 1998, ''Hazard Assessment of the Organophosphates'' and the Agency's July 9, 1998, ''FQPA Safety Factor Recommendations for the Organophosphates.'' In general, these two documents were completed at a different time than the seven individual pesticide preliminary risk assessments discussed in this notice. The Agency notes that where the preliminary risk assessments are inconsistent with the Hazard Assessment and FQPA Assessment, these Assessments will supersede the relevant portions of the preliminary risk assessments and will be incorporated into the revised individual pesticide risk assessments. The Agency also notes that these documents reflect only the work and analysis conducted as of the time they were produced, and as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

The Agency is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessments for the chemicals specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to these specific chemicals. Comments should be limited to issues raised within the preliminary risk assessments and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the organophosphate tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate

fully in later notice and comment processes. All comments should be submitted by March 16, 1999 at the address given under ''ADDRESSES.'' Comments will become part of the Agency record for each individual pesticide to which they pertain.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under the following docket control numbers. When submitting written or electronic comments regarding the seven organophosphates, use the following docket control numbers:

Chemical	OPP Docket no.
Azinphos methyl	OPP–34131A
Chlorethoxyfos	OPP–34170
Ethyl parathion	OPP–34171
Methidathion	OPP–34172
Phosmet	OPP–34173
Propetemphos	OPP–34174
Tetrachlorvinphos	OPP–34175

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 Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket control number OPP–34169. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 8, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–1025 Filed 1–14–99; 8:45 am]

BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Tuesday, January 26, 1999 at 2:00 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW, Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes, and
2. Panel of Community/Advisory Groups

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission meetings.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, on (202) 663–4070.

Dated: January 13, 1999.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 99–1085 Filed 1–13–99; 12:12 pm]

BILLING CODE 6750–06–M

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the February 11, 1999 regular meeting of the Farm Credit Administration Board (Board) will not be held. The Board will hold a special meeting at 9:00 a.m. on Tuesday, February 2, 1999. An agenda for that meeting will be forthcoming.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: January 12, 1999.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–1079 Filed 1–13–99; 12:12 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

January 5, 1999.

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, 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: Written comments should be submitted on or before February 16, 1999. 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, 445 12th Street, S.W., Washington, DC 20554 or via the 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 the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0028.

Title: Application for Authorization in the Auxiliary Broadcast Services.

Form Number: FCC 313.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities; State, Local, or Tribal Government.

Number of Respondents: 1,500.

Estimated Time Per Response: 1.0 to 5.166 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 4,625 hours.

Total Annual Costs: $902,400.

Needs and Uses: FCC Form 313 is used by licensees or permittees of AM, FM, and TV broadcast stations and eligible networks when applying for a remote pickup, aural microwave, television microwave, and other various auxiliary broadcast stations. Statutory authority for this collection of information is contained in Sections 154(I) and 308 of the Communications Act of 1934, as amended. This form is required by 47 CFR 73.3511 and 73.3533. This form has been revised to delete the fee payment information as FCC Form 159, Fee Remittance Advice, is now required with any payment to the FCC. The Fee Remittance Advice duplicates this information. Due to changes in the Antenna Structure Registration procedures under Part 17 of the FCC Rules, this form will collect the seven digit antenna structure registration number assigned by the Commission. This form has also been revised to collect metric measurements only. These changes should not affect the estimated average burden per respondent.

The information will be used by the Commission to determine if the proposal will meet statutory requirements; to determine eligibility for a license; to aid in frequency spectrum management; and to ensure interference will not be caused by existing stations. The data will be used to issue an authorization and may be used for enforcement purposes when necessary.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–976 Filed 1–14–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

January 5, 1999.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0149.

Expiration Date: 11/30/2001.

Title: Application and Supplemental Information Requirements—Part 63, Section 214, Sections 63.01–63.601.

Form No.: N/A.

Respondents: Business or other for-profit;

Estimated Annual Burden: 255 respondents; 10.5 hours per response (avg.); 2550 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. Section 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. 47 CFR Part 63 implements Section 214. See 47 CFR Sections 63.01–63.601 for information collection requirements. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video programming by telephone common carriers. This approval also covers the information collections proposed in the Notice of Proposed Rulemaking, issued in CC Docket No. 97–11, *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996* (Section 214—Extensions of Lines), released January 13, 1997. In the NPRM, the Commission proposed to modify 47 CFR Part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. The Commission proposed entirely eliminating the requirement for carriers to file applications for line ''extensions'' because Congress has exempted line ''extensions'' from the requirements of 47 U.S.C. 214, under Section 402(b)(2)(A) of the Telecommunications Act of 1996. The Commission also proposed eliminating the requirement for reports submitted by carriers identified by the Commission as domestic non-dominant carriers, small carriers, and carriers proposing small projects. Congress enacted section 214 to prevent unnecessary duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers, and the Commission tentatively concluded that these carries are not likely to construct, operate, or acquire duplicative facilities. For carriers identified by the Commission as domestic dominant rate-of-return carriers, the Commission proposed reducing (but not entirely eliminating) the information submission requirements in applications for ''new'' lines, because the information is collected elsewhere, is unnecessary, is confusing in light of the provisions of section 402(b)(2)(A), or is no longer of decisional significance to the Commission. See CC Docket No. 97–11. The information received in applications from dominant carriers (proposed to be reduced) has been used by the Commission to determine if the facilities are needed. The information contained in reports from non-dominant carriers (proposed to be eliminated) has been used to monitor the growth of the networks and the availability of common carrier services in this segment of the telecommunications market, to relieve these carriers and the Commission of a before-the-fact review of each subsequent facility addition. These collections of information were deemed necessary to enable the Commission to comply with its mandate. Because Congress has changed the Commission's mandate in the Telecommunications Act of 1996, the information proposed to be reduced and eliminated may no longer be warranted. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–975 Filed 1–14–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL HOUSING FINANCE BOARD

[No. 99–N–1]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: None.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1998–99 fourth quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1998–99 fourth quarter review cycle must submit completed Community Support Statements to the Finance Board on or before March 1, 1999.

ADDRESSES: FHLBank members selected for the 1998–99 fourth quarter review cycle must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Research and Analysis, Program Assistance Division, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006; or by electronic mail: BATESP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Research and Analysis, Program Assistance Division, by telephone at 202/408–2574, by electronic mail at BATESP@FHFB.GOV, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 19774 (CRA), *id*. 2901 et seq., and record of lending to first-time homebuyers. *Id*. 1430(g)(2).

Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a FHLBank member must meet in order to maintain access to long-term advances and review criteria that Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 936. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id*. § 936.3. Only members subject to the CRA must meet the CRA standard. *Id*. § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id*. § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id*. § 936.3(a). The Finance Board will not review an institution's community support performance until it has been an FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financail condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the March 1, 1999 deadline prescribed in this notice. *Id*. § 936.2(b)(1)(ii) and (c). On or before January 30, 1999, each FHLBank will notify the members in its district that have been selected for the 1998–99 fourth quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id*. § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site at WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1998–99 fourth quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Nutmeg FS&LA, Danbury, CT
Union Savings Bank, Danbury, CT
Jewett City Savings Bank, Jewett City, CT
First National Bank of Litchfied, Litchfield, CT
Naugatuck Valley S&LA, Inc., Naugatuck, CT
New Haven Savings Bank, New Haven, CT
Newtown Savings Bank, Newtown, CT
Fairfield County Savings Bank, Norwalk, CT
Ridgefield Bank, Ridgefield, CT
First County Bank, Stamford, CT
South Adams Savings Bank, Adams, MA
Andover Bank, Andover, MA
Barre Savings Bank, Barre, MA
USTrust, Boston, MA
Brookline Savings Bank, Brookline, MA
Boston Federal Savings Bank, Burlington, MA
Cambridgeport Bank, Cambridge, MA
North Cambridge Co-operative Bank, Cambridge, MA
Canton Co-operative Bank, Canton, MA
Edgartown National Bank, Edgartown, MA
First Federal Savings Bank of America, Fall River, MA
Fidelity Co-operative Bank, Fitchburg, MA
Fitchburg Savings Bank, FSB, Fitchburg, MA
Greenfield Co-operative Bank, Greenfield, MA
Haverhill Co-operative Bank, Haverhill, MA
Hyde Park Cooperative Bank, Hyde Park, MA
Ipswich Co-operative Bank, Ipswich, MA
Lowell Co-operative Bank, Lowell, MA
Medford Savings Bank, Medford, MA
Milford National Bank & Trust Company, Milford, MA
Natick Federal Savings Bank, Natick, MA
Revere FS&LA, Revere, MA
Heritage Co-operative Bank, Salem, MA
Salem Five Cents, Savings Bank, Salem, MA
People's Savings Bank of Brockton,, South Easton, MA
Stoneham Savings Bank, Stoneham, MA
Country Bank for Savings, Ware, MA
Wellesley Co-operative Bank, Wellesley, MA
South Shore Cooperative Bank, Weymouth, MA
Winchester Co-operative Bank, Winchester, MA
Bay State Savings Bank, Worcester, MA
Cape Cod Co-operative Bank, Yarmouth Port, MA
Bangor Savings Bank, Bangor, ME
Bar Harbor Savings & Loan Association, Bar Harbor, ME
Northeast Bank, F.S.B., Bethel, ME
First Citizens Bank, Presque Isle, ME
Waldoboro Bank, F.S.B., Waldoboro, ME
Berlin City Bank, Berlin, NH
Village Bank & Trust, Gilford, NH
Granite Bank, Keene, NH
Lancaster National Bank, Lancaster, NH
Profile Bank, FSB, Rochester, NH
Bank of Newport, Newport, RI
Citizens Bank of Rhode Island, Providence, RI
Westerly Savings Bank, Westerly, RI
Brattleboro Savings & Loan, FA, Brattleboro, VT
Lyndonville Savings Bank & Trust Company, Lyndonville, VT

Federal Home Loan Bank of New York—District 2

West Essex Bank, F.S.B, Caldwell, NJ
Cape Savings Bank, Cape May C.H., NJ
United Roosevelt Savings Bank, Carteret, NJ
Commerce Bank, N.A., Cherry Hill, NJ
First Community Bank, Clinton, NJ
First Constitution Bank, Cranbury, NJ
Delanco Federal Savings Bank, Delanco, NJ
Columbia Savings Bank, Fair Lawn, NJ
Spencer Savings Bank, SLA, Garfield, NJ
Haven Savings Bank, Hoboken, NJ
Manasquan Savings Bank, Manasquan, NJ
Equity National Bank, Marlton, NJ
City National Bank of New Jersey, Newark, NJ
First Bank of Sea Isle City, Sea Isle City, NJ
The Union Center National Bank, Union, NJ
Wawel Savings Bank, SLA, Wallington, NJ
Crest Savings Bank, SLA, Wildwood Crest, NJ
Bridgehampton National Bank, Bridgehampton, NY
Atlas Savings & Loan Association, Brooklyn, NY

Reliance Federal Savings Bank, Garden City, NY
Goshen Savings Bank, Goshen, NY
Tompkins County Trust Company, Ithaca, NY
Jamaica Savings Bank, FSB, Lynbrook, NY
NBT Bank, N.A., Norwich, NY
The Oneida Savings Bank, Oneida, NY
Adirondack Bank, N.A., Saranac Lake, NY
Bank of Smithtown, Smithtown, NY
Walden FS&LA, Walden, NY
Fourth Federal Savings Bank, White Plains, NY
City & Suburban Federal Savings Bank, Yonkers, NY
Westernbank Puerto Rico, Mayaguez, PR

Federal Home Loan Bank of Pittsburgh—District 3

Sovereign Bank, FSB, Toms River, NJ
ADP Savings Association, Allentown, PA
Iron Workers Savings Bank, Aston, PA
Madison Bank, Blue Bell, PA
National Penn Bank, Boyertown, PA
Union Building & Loan Savings Bank, Bridgewater, PA
Clearfield Bank & Trust Company, Clearfield, PA
Dauphin National Bank, Dauphin, PA
First Financial Savings Bank, PaSA, Downingtown, PA
Elverson National Bank, Elverson, PA
Community Bank & Trust Company, Forest City, PA
Dime Bank, Honesdale, PA
Indiana First Savings Bank, Indiana, PA
Manor National Bank, Manor, PA
Standard Bank, Monroeville, PA
First Commercial Bank of Philadelphia, Philadelphia, PA
Roxborough-Manayunk Federal Savings Bank, Philadelphia, PA
Brentwood Savings Bank, Pittsburgh, PA
Mt. Troy Savings Bank, FSB, Pittsburgh, PA
PNC Bank, N.A., Pittsburgh, PA
Pennsylvania Capital Bank, Pittsburgh, PA
Schuylkill Savings & Loan Association, Schuylkill Haven, PA
Somerset Trust Company, Somerset, PA
Omega Bank, State College, PA
Mechanics Savings & Loan FSB, Steelton, PA
Commonwealth Bank, Valley Forge, PA
Compass Federal Savings Bank, Wilmerding, PA
One Valley Bank, N.A., Charleston, WV
Hancock County Savings Bank, FSB, Chester, WV
Citizens National Bank, Elkins, WV
Traders Bank, Spencer, WV
Progressive Bank, N.W., Wheeling, WV

Federal Home Loan Bank of Atlanta—District 4

Commerce Bank of Alabama, Albertville, AL
First Federal Savings Bank, Bessemer, AL
Citizens Federal Savings Bank, Birmingham, AL
SouthTrust Bank of Alabama, N.A., Birmingham, AL
First Federal Bank, Fort Payne, AL
Home Bank, Guntersville, AL
Pinnacle Bank, Jasper, AL
Farmers National Bank, Opelika, AL
Jacobs Bank, Scottsboro, AL
First Federal Bank, a fsb, Tuscaloosa, AL
Amerifirst, N.A., Union Springs, AL
Independence Federal Savings Bank, Washington, DC
The Bank of Delmar, Seaford, DE
Community National Bank at Bartow, Bartow, FL
Comerica Bank & Trust, FSB, Boca Raton, FL
First Southern Bank, Boca Raton, FL
Crown Bank, a fsb, Casselberry, FL
AmSouth Bank of Florida, Dunedin, FL
Harbor Federal Savings Bank, Fort Pierce, FL
First South Bank, Holiday, FL
Homosassa Springs Bank, Homosassa Springs, FL
First Federal Savings Bank of Lake County, Leesburg, FL
City National Bank of Florida, Miami, FL
Interamerican Bank, a FSB, Miami, FL
Intercredit Bank, N.A., Miami, FL
Pacific National Bank, Miami, FL
Farmers & Merchants Bank, Monticello, FL
First National Bank of Naples, Naples, FL
Village Banc of Naples, Naples, FL
OceanMark Bank, F.S.B., North Miami Beach, FL
Lochaven FS&LA, Orlando, FL
Preferred Bank, A FSB, Palmetto, FL
Union Bank of Florida, Plantation, FL
First Community Bank of America, Port Charlotte, FL
SouthTrust Bank of Florida, N.A., St. Petersburg, FL
Seaboard Savings Bank, F.S.B., Stuart, FL
Valrico State Bank, Valrico, FL
PNC Bank, FSB, Vero Beach, FL
Fidelity Federal Savings Bank of Florida, West Palm Beach, FL
First Bank of Florida, West Palm Beach, FL
Bank of North Georgia, Alpharetta, GA
Bainbridge National Bank, Bainbridge, GA
First Port City Bank, Bainbridge, GA
First National Bank, Barnesville, GA
Baxley Federal Savings Bank, Baxley, GA
Peoples State Bank & Trust, Baxley, GA
First Federal Savings Bank of Brunswick, Brunswick, GA
Security State Bank, Canton, GA
West Georgia National Bank, Carrollton, GA
First State Bank & Trust Company, Cordele, GA
Coffee County Bank, Douglas, GA
The Bank of Fitzgerald, Fitzgerald, GA
Glennville Bank & Trust Company, Glennville, GA
Commercial Banking Company, Hahira, GA
First Federal Savings Bank of LaGrange, LaGrange, GA
First Liberty Bank, Macon, GA
Security National Bank, Macon, GA
Riverside Bank, Marietta, GA
Peoples Bank, Pearson, GA
Quitman FS&LA, Quitman, GA
Citizens Bank of Washington County, Sandersville, GA
First National Bank of Effingham, Springfield, GA
Eagle Bank & Trust, Statesboro, GA
Bank of Worth, Sylvester, GA
Thomas County FS&LA, Thomasville, GA
Stephens FS&LA, Toccoa, GA
Mountain National Bank, Tucker, GA
Darby Bank & Trust Company, Vidalia, GA
First Community Bank of Vidalia, Vidalia, GA
Vidalia FS&LA, Vidalia, GA
Bank of Dooly, Vienna, GA
Peoples Bank, Winder, GA
Talbot State Bank, Woodland, GA
Arundel Federal Savings Bank, Baltimore, MD
Chesapeake Bank of Maryland, Baltimore, MD
Fairmount Federal Savings Bank, Baltimore, MD
Golden Prague FS&LA, Baltimore, MD
Hopkins Federal Savings Bank, Baltimore, MD
Madison Square Federal Savings Bank, Baltimore, MD
Parkville Federal Savings Bank, Baltimore, MD
Rosedale FS&LA, Baltimore, MD
Westview FS&LA, Baltimore, MD
Washington Savings Bank, F.S.B., Bowie, MD
Chevy Chase Bank, FSB, Chevy Chase, MD
Patapsco Bank, Dundalk, MD
Commercial & Farmers Bank, Ellicott City, MD
Farmers & Mechanics National Bank, Frederick, MD
OBA FS&LA, Gaithersburg, MD
Columbian Bank, F.S.B., Havre de Grace, MD
Suburban Federal Savings Bank, Landover Hills, MD
Heritage Savings Bank, Lutherville, MD
Senator Savings Bank, FSB, Towson, MD
Community Bank of TriCounty, Waldorf, MD
Woodsboro Bank, Woodsboro, MD
Asheville Savings Bank, S.S.B., Asheville, NC
Community Savings Bank, SSB, Burlington, NC
First State Savings Bank, SSB, Burlington, NC
Cherryville FS&LA, Cherryville, NC
First Federal Savings Bank, Dunn, NC
Mutual Community Savings Bank, Inc., SSB, Durham, NC
Home Federal Savings & Loan, Fayetteville, NC
Hillsborough Savings Bank, SSB, NC
First FS&LA of Lincolnton, Lincolnton, NC
Progressive Savings & Loan, Ltd., Lumberton, NC
Mooresville Savings Bank, SSB, Mooresville, NC
Richmond Savings Bank, Inc., SSB, Rockingham, NC
Roxboro Savings Bank, SSB, Roxboro, NC
Citizens Savings Bank of Salisbury, SSB, Salisbury, NC
Home Savings, Inc., SSB, Thomasville, NC
NewSouth Bank, Washington, NC
Abbeville Savings & Loan Association, Abbeville, SC
Bank of Abbeville, Abbeville, SC
Palmetto Federal Savings Bank, Aiken, SC
FirstBank, N.A., Beaufort, SC
First FS&LA of Cheraw, Cheraw, SC
First Savers Bank, Greenville, SC
Citizens Building & Loan Association, Greer, SC
Mutual Savings & Loan Association, F.A., Hartsville, SC
Atlantic Savings Bank, FSB, Hilton Head Island, SC
Pee Dee Federal Savings Bank, Marion, SC
Coastal Federal Savings Bank, Myrtle Beach, SC
Bank of Newberry County, Newberry, SC
Oconee FS&LA, Seneca, SC
First Federal of Spartanburg, Spartanburg, SC
Community First Bank Walhalla, Walhalla, SC

First Federal of South Carolina, FSB, Walterboro, SC
Community Federal Savings Bank, Winnsboro, SC
Citizens Bank & Trust Company, Blackstone, VA
Caroline Savings Bank, Bowling Green, VA
Acacia Federal Savings Bank, Falls Church, VA
First Virginia Bank, Falls Church, VA
Mainstreet Bank of Central Virginia, Forest, VA
Virginia Savings Bank, FSB, Front Royal, VA
One Valley Bank—Central Virginia, Lynchburg, VA
First FS&LA of Martinsville, Martinsville, VA
Piedmont Trust Bank, Martinsville, VA
Harbor Bank, Newport News, VA
BB&T, Norfolk, VA
Cenit Bank, FSB, Norfolk, VA
Essex Savings Bank, F.S.B., Norfolk, VA
BB&T, Petersburg, VA
BB&T, Richmond, VA
Bank of Tazewell County, Tazewell, VA
Approved Federal Savings Bank, Virginia Beach, VA
First Coastal Bank, Virginia Beach, VA

Federal Home Loan Bank of Cincinnati—District 5

Home FS&LA, Ashland, KY
Bank of Buffalo, Buffalo, KY
Citizens Deposit Bank, Calhoun, KY
First National Bank, Columbia, KY
First National Bank & Trust Company, Corbin, KY
Kentucky FS&LA, Covington, KY
Fifth Third Bank of Northern Kentucky, Florence, KY
Greensburg Deposit Bank & Trust Company, Greensburg, KY
Citizens National Bank & Trust of Hazard, Hazard, KY
Casey County Bank, Inc., Liberty, KY
Independence Bank of Kentucky, Livermore, KY
Home Savings Bank, Ludlow, KY
Madisonville Building & Loan Association, Madisonville, KY
Bank of Maysville, Maysville, KY
Hart County Bank & Trust Company, Munfordville, KY
Farmers Bank, Nicholasville, KY
Owensboro National Bank, Owensboro, KY
Community Trust Bank, N.A., Pikeville, KY
Cumberland Security Bank, Somerset, KY
Commercial Bank, West Liberty, KY
Summit Bank, N.A., Akron, OH
Antwerp Exchange Bank Company, Antwerp, OH
Hocking Valley Bank, Athens, OH
Citizens FS&LA, Bellefontaine, OH
Guernsey Bank FSB, Cambridge, OH
Castalia Banking Company, Castalia, OH
Mercer Savings Bank, Celina, OH
First County Bank, Chardon, OH
Cheviot Building & Loan Company, Cheviot, OH
Bramble FS & LA of Cincinnati, Cincinnati, OH
Cincinnati FS&LA, Cincinnati, OH
North Side Bank & Trust Company, Cincinnati, OH
National City Bank, Cleveland, Cleveland, OH
Ohio Savings Bank, Cleveland, OH
Home Loan Savings Bank, Coshocton, OH
Covington Savings & Loan Association, Covington, OH
Delaware County Bank & Trust Company, Delaware, OH
Northern Savings & Loan Company, Elyria, OH
Genoa Savings & Loan Company, Genoa, OH
Indian Village FS&LA, Gnadenhutten, OH
Hicksville Bank, Hicksville, OH
Home Builders Association, Lynchburg, OH
Citizens Savings Bank, Martins Ferry, OH
People's Building Loan & Savings Company, Mason, OH
Clermont Savings Bank, FSB, Milford, OH
Commercial & Savings Bank, Millersburg, OH
First National Bank, Nelsonville, OH
Peoples National Bank, New Lexington, OH
First National Bank of Pandora, Pandora, OH
Century Bank, F.S.B., Parma, OH
Farmers Bank & Savings Company, Pomeroy, OH
Ravenna Savings Bank, Ravenna, OH
Capital Bank, N.A., Sylvania, OH
Commercial Savings Bank, Upper Sandusky, OH
Versailles Savings & Loan Company, Versailles, OH
Enterprise Federal Savings Bank, West Chester, OH
Wayne Savings Community Bank, Wooster, OH
Home Savings & Loan Company of Youngstown, Youngstown, OH
Century National Bank, Zanesville, OH
Athens FS&LA, Athens, TN
First National Bank & Trust Company, Athens, TN
Bells Banking Company, Bells, TN
Benton Banking Company, Benton, TN
People's Bank & Trust Company, Byrdstown, TN
Pioneer Bank, Chattanooga, TN
Rhea County National Bank, Dayton, TN
Greenfield Banking Company, Greenfield, TN
First Peoples Bank of Tennessee, Jefferson City, TN
NBC–FSB Knoxville, Knoxville, TN
Lawrenceburg Federal Bank, FSB, Lawrenceburg, TN
Community National Bank, Lexington, TN
Union Bank & Trust Company, Livingston, TN
Bank of Tennessee, Memphis, TN
EFS National Bank, Memphis, TN
Community Bank, Nashville, TN
First Trust & Savings Bank, Oneida, TN
Citizens Bank & Trust Company, Rutledge, TN
Bank of Waynesboro, Waynesboro, TN

Federal Home Loan Bank of Indianapolis—District 6

Anderson Community Bank, Anderson, IN
Heritage Bank & Trust Company, Darlington, IN
Elberfield State Bank, Elberfield, IN
Mutual Savings Bank, Franklin, IN
Bank Calumet, N.A., Hammond, IN
First FS&LA of Hammond, Hammond, IN
Citizens First State Bank, Hartford City, IN
First Indiana Bank, a FSB, Indianapolis, IN
Farmers State Bank, LaGrange, IN
Perpetual FS&LA, Lawrenceburg, IN
MFB Finanacial, Mishawaka, IN
American National Bank & Trust, Muncie, IN
West End Savings Bank, Richmond, IN
Scott County State Bank, Scottsburg, IN
Security Bank & Trust Company, Vincennes, IN
Mutual Savings Bank, FSB, Bay City, MI
Citizens Commercial & Savings Bank, Flint, MI
Old Kent Bank, Grand Rapids, MI
D&N Bank, FSB, Hancock, MI
Mainstreet Savings Bank, FSB, Hastings, MI
The Honor State Bank, Honor, MI
Ionia County National Bank, Ionia, MI
First National Bank of Iron Mountain, Iron Mountain, MI
Community First Bank, Lansing, MI
Wolverine Bank, F.S.B., Midland, MI
Central Savings Bank, Sault Ste. Marie, MI
Sturgis Bank & Trust Company, Sturgis, MI
First Savings Bank, Three Rivers, MI
Standard Federal Bank, Troy, MI

Federal Home Loan Bank of Chicago—District 7

Citizens National Bank of Albion, Albion, IL
Apple River State Bank, Apple River, IL
Arcola Homestead Savings Bank, Arcola, IL
Atlanta National Bank, Atlanta, IL
Bartelso Savings Bank, Bartelso, IL
Midland FS&LA, Bridgeview, IL
Farmers & Merchants State Bank of Bushnell, Bushnell, IL
Byron Bank, Byron, IL
First State Bank of Campbell Hill, Campbell Hill, IL
Carrollton Bank, Carrollton, IL
BankIllinois, Champaign, IL
Avondale Federal Savings Bank, Chicago, IL
Chesterfield FS&LA of Chicago, Chicago, IL
Hoyne Savings Bank, Chicago, IL
Loomis FS&LA, Chicago, IL
North Side FS&LA of Chicago, Chicago, IL
Royal Savings Bank, Chicago, IL
Seaway National Bank of Chicago, Chicago, IL
Second FS&LA, Chicago, IL
South Chicago Bank, Chicago, IL
Central FS&LA, Cicero, IL
Mid-America Bank, FSB, Clarendon Hills, IL
Central State Bank, Clayton, IL
DeWitt Savings Bank, Clinton, IL
First Federal Bank, F.S.B., Colchester, IL
First United Bank, Crete, IL
First National Bank in DeKalb, DeKalb, IL
Soy Capital Bank & Trust Company, Decatur, IL
Durand State Bank, Durand, IL
Galena State Bank & Trust Company, Galena, IL
Community State Bank, Galva, IL
Howard Savings Bank, Glenview, IL
Security State Bank of Hamilton, Hamilton, IL
Harvard Savings Bank, Harvard, IL
First National Bank of La Grange, La Grange, IL
Exchange State Bank, Lanark, IL
The Lemont National Bank, Lemont, IL
Bank & Trust Company, Litchfield, IL
Union Bank/West, Macomb, IL
Continental Community Bank & Trust Company, Maywood, IL
A.J. Smith Federal Savings Bank, Midlothian, IL
Security Savings Bank, Monmouth, IL
Ayars State Bank, Moweaqua, IL
Farmers State Bank Chadwich & Mt. Carroll, Mt. Carroll, IL

The First National Bank, Mulberry Grove, IL
Hawthorn Bank, Mundelein, IL
Warren-Boynton State Bank, New Berlin, IL
Ottawa Savings Bank, Ottawa, IL
State Bank of Paw Paw, Paw Paw, IL
First Capital Bank, Peoria, IL
The Heights Bank, Peoria Heights, IL
Pleasant Plains State Bank, Pleasant Plains, IL
Town & Country Bank of Quincy, Quincy, IL
Rantoul First Bank, s.b., Rantoul, IL
First National Bank of Raymond, Raymond, IL
First Ridge Farm State Bank, Ridge Farm, IL
Community State Bank of Rock Falls, Rock Falls, IL
Rushville State Bank, Rushville, IL
AmericanUnited Bank & Trust Company USA, Schaumburg, IL
Illini Bank, Springfield, IL
Union Bank of Illinois, Swansea, IL
Tuscola National Bank, Tuscola, IL
Bank of Warrensburg, Warrensburg, IL
State Bank Winslow-Warren, Winslow, IL
Portage County Bank, Almond, WI
Pioneer Bank, Auburndale, WI
First National Bank of Baldwin, Baldwin, WI
Amcore Bank, Central Wisconsin, Baraboo, WI
First N.B. & Trust Company of Baraboo, Baraboo, WI
Black River Country Bank, Black River Falls, WI
Bonduel State Bank, Bonduel, WI
Dairyman's State Bank, Clintonville, WI
Farmers & Merchants Union Bank, Columbus, WI
Cumberland Federal Bank, FSB, Cumberland, WI
Community Bank of Grafton, Grafton, WI
Highland State Bank, Highland, WI
Security State Bank, Iron River, WI
East Wisconsin Savings Bank, S.A., Kaukauna, WI
Bank Wisconsin, Kewaskum, WI
The Greenwood's State Bank, Lake Mills, WI
First Bank & Trust, Menomonie, WI
Bank of Milton, Milton, WI
Milwaukee Western Bank, Milwaukee, WI
Reliance Savings Bank, Milwaukee, WI
St. Francis Bank, F.S.B, Milwaukee, WI
Universal Savings Bank, F.A., Milwaukee, WI
Associated Bank, N.A., Neenah, WI
Clare Bank, N.A., Platteville, WI
Mound City Bank, Platteville, WI
Community Bank, Sheboygan, WI
First Federal Savings Bank of Wisconsin, Waukesha, WI
Marquette Savings Bank, S.A., West Allis, WI
KeySavings Bank, Wisconsin Rapids, WI
Wood County National Bank & Trust, Wisconsin Rapids, WI

Federal Home Loan Bank of Des Moines—District 8

Iowa Savings Bank, Carroll, IA
First Trust & Savings Bank, Cedar Rapids, IA
Central Trust & Savings Bank, Cherokee, IA
Linn County State Bank, Coggon, IA
Farmers Savings Bank, Colesburg, IA
Citizens Bank, Corydon, IA
Fortress Bank of Cresco, Cresco, IA
Valley State Bank, Eldridge, IA
First National Bank of Fairfield, Fairfield, IA
Farmers State Bank, Jesup, IA
Hills Bank, Lisbon, IA
First State Bank of Mapleton, Mapleton, IA
Farmers Savings Bank, Mount Pleasant, IA
New Vienna Savings Bank, New Vienna, IA
First State Bank, Nora Springs, IA
American State Bank, Osceola, IA
Perry State Bank, Perry, IA
Readlyn Savings Bank, Readlyn, IA
Community Savings Bank, Robins, IA
Premier Bank, Rock Valley, IA
Iowa State Bank, Sac City, IA
Sanborn Savings Bank, Sanborn, IA
The State Bank, Spirit Lake, IA
Union Bank & Trust Company, Strawberry Point, IA
State Bank of Toledo, Toledo, IA
Farmers Savings Bank, Walford, IA
Iowa State Bank, Wapello, IA
Washington Federal Savings Bank, Washington, IA
State Bank of Waverly, Waverly, IA
First State Bank, Webster City, IA
Union State Bank, Winterset, IA
First State Bank of Bayport, Bayport, MN
CreditAmerica Savings Company, Brainerd, MN
The First National Bank of Coleraine, Coleraine, MN
Western National Bank of Duluth, Duluth, MN
Fidelity Bank, Edina, MN
Citizens State Bank of Gaylord, Gaylord, MN
Geneva State Bank, Geneva, MN
First National Bank of Gilbert, Gilbert, MN
Yellow Medicine County Bank, Granite Falls, MN
Northwestern State Bank of Hallock, Hallock, MN
1st American State Bank of Minnesota, Hancock, MN
Harmony State Bank, Harmony, MN
First Federal FSB, Hutchinson, MN
United Prairie Bank—Jackson, Jackson, MN
Cornerstone State Bank, La Sueur, MN
First Community Bank Lester Prairie, Lester Prairie, MN
State Bank of Loretto, Loretto, MN
US Bank, N.A., Minneapolis, MN
First National Bank of Montgomery, Montgomery, MN
First National Bank of Monticello, Monticello, MN
United Farmers & Merchants State Bank, Morris, MN
Northland Community Bank, Northome, MN
Citizens State Bank of Norwood, Norwood Young America, MN
Odin State Bank, Odin, MN
Prinsburg State Bank, Prinsburg, MN
Randall State Bank, Randall, MN
Woodland Bank, Remer, MN
Richfield Bank & Trust Company, Richfield, MN
Marquette Bank Rochester, N.A., Rochester, MN
First State Bank of Rushmore, Rushmore, MN
Home Federal Savings Bank, Spring Valley, MN
St. Anthony Park State Bank, St. Paul, MN
Heartland State Bank, Storden, MN
Northwestern State Bank of Ulen, Ulen, MN
Wells Federal Bank, A FSB, Wells, MN
Worthington FS&LA, Worthington, MN
First Missouri National Bank, Brookfield, MO
BC National Banks, Butler, MO
Carroll County Trust Company of Carrollton, Carrollton, MO
Chillicothe State Bank, Chillicothe, MO
Investors Federal Bank, N.A., Chillicothe, MO
Boone National S&LA, FA, Columbia, MO
First State Community Bank, Farmington, MO
Ozarks FS&LA, Farmington, MO
Bank Northwest, Hamilton, MO
Hardin Federal Savings Bank, Hardin, MO
Bank of Hayti, Hayti, MO
Peoples Savings Bank of Rhineland, Hermann, MO
First National Bank, Houston, MO
Kennett National Bank, Kennett, MO
Bank of Kimberling City, Kimberling City, MO
First National Bank, Lamar, MO
Lamar Bank & Trust Company, Lamar, MO
Central Bank, Lebanon, MO
Macon Building & Loan Association, Macon, MO
First National Bank of Malden, Malden, MO
Pioneer Bank & Trust Company, Maplewood, MO
Wood & Huston Bank, Marshall MO
First National Bank of Audrain County, Mexico, MO
Peoples Bank of the Ozarks, Nixa, MO
First Midwest Bank of Piedmont, Piedmont, MO
The State Bank, Richmond, MO
Dent County Bank, Salem, MO
Farmers State Bank of Schell City, Schell City, MO
Citizens National Bank of Springfield, Springfield, MO
Bank of Thayer, Thayer, MO
Quarry City Savings & Loan Association, Warrensburg, MO
Citizens State Bank of Pembina County, Cavalier, ND
Norwest Bank North Dakota, N.A., Fargo, ND
First State Bank Langdon, Langdon, ND
First National Bank in Garretson, Garretson, SD
BankFirst, N.A., Sioux Falls, SD
Home Federal Savings Bank, Sioux Falls, SD
F&M Bank, Watertown, SD

Federal Home Loan Bank of Dallas—District 9

First Financial Bank, FSB, El Dorado, AR
Fordyce Bank & Trust Company, Fordyce, AR
Forrest City Bank, N.A., Forrest City, AR
City National Bank, Fort Smith, AR
Pine Bluff National Bank, Pine Bluff, AR
First National Bank & Trust Company, Rogers, AR
First Western Bank & Trust, Rogers, AR
First National Bank, Siloam Springs, AR
Bank of Coushatta, Coushatta, LA
St. Tammany Homestead Association, Covington, LA
Teche Federal Savings & Loan, Franklin, LA
Florida Parishes Homestead Association, Hammond, LA
LBA Savings Bank, Lafayette, LA
Guaranty Savings & Homestead Association, Metairie, LA
Mutual Savings & Loan Association, Metairie, LA
Eureka Homestead Society, New Orleans, LA
Hibernia Homestead & Savings Association, New Orleans, LA
Ponchatoula Homestead Association, Ponchatoula, LA

Bank of West Baton Rouge, Port Allen, LA
Ruston Building & Loan Association, Ruston, LA
Bank of St. Francisville, St. Francisville, LA
Bank of Commerce, White Castle, LA
Amory FS&LA, Amory, MS
Delta Bank & Trust, Drew, MS
Britton & Koontz First National Bank, Natchez, MS
Bank of New Mexico, Albuquerque, NM
International State Bank, Raton, NM
First National Bank of Athens, Athens, TX
First National Bank of Bridgeport, Bridgeport, TX
Citizens State Bank, Cross Plains, TX
Beal Bank, SSB, Dallas, TX
Security Bank, N.A.—Garland, Garland, TX
Hebbronville State Bank, Hebbronville, TX
Liberty Savings Association, Houston, TX
MetroBank, N.A., Houston, TX
Texas Guaranty National Bank, Houston, TX
Texas State Bank, Joaquin, TX
First Nichols National Bank, Kenedy, TX
First National Bank of Lake Jackson, Lake Jackson, TX
First FS&LA, Littlefield, TX
Bank of Livingston, Livingston, TX
Plains National Bank of West Texas, Lubbock, TX
Mason National Bank, Mason, TX
Inter National Bank, McAllen, TX
Mineola Community Bank, SSB, Mineola, TX
Commercial Bank of Texas, N.A., Nacogdoches, TX
Western National Bank, Odessa, TX
Orange Savings Bank, ssb, Orange, TX
Lone Star National Bank, Pharr, TX
Fort Bend FS&LA of Rosenberg, Rosenberg, TX
Community Bank of Central Texas, ssb, Smithville, TX
Town & Country Bank, Stephenville, TX
First National Bank, Trinity, TX
First National Bank of Bosque County, Valley Mills, TX
FIrstCapital Bank, ssb, Victoria, TX

Federal Home Loan Bank of Topeka—District 10

Commerce Bank, Aurora, CO
IBM Rocky Mountain Employees Credit Union, Boulder, CO
Del Norte FS&LA, Del Norte, CO
Centennial Savings Bank, FSB, Durango, CO
Park National Bank, Estes Park, CO
The State Bank—La Junta, La Junta, CO
First National Bank of Lake City & Creede, Lake City, CO
Western Colorado Bank, Montrose, CO
Bank of Commerce, Chanute, KS
Home Savings Bank, Chanute, KS
State Bank of Colwich, Colwich, KS
Landmark Federal Savings Bank, Dodge City, KS
Citizens State Bank & Trust Company, Ellsworth, KS
State Bank of Fredonia, Fredonia, KS
Gardner National Bank, Gardner, KS
Farmers State Bank of Oakley, Oakley, KS
First Kansas Federal Savings Association, Osawatomie, KS
First Bank, Sterling, KS
Chisholm Trail State Bank, Wichita, KS
The State Bank, WInfield, KS
Teambank Nebraska, Bellevue, NE
Bank of Bennington, Bennington, NE
Washington County Bank, Blair, NE
Custer FS&LA, Broken Bow, NE
Citizens State Bank, Carleton, NE
CerescoBank, Ceresco, NE
First State Bank, Enders, NE
American National Bank of Fremont, Fremont, NE
First State Bank, Fremont, NE
Henderson State Bank, Henderson, NE
Kearney State Bank & Trust Company, Kearney, NE
Firstate, Kimball, NE
Pinnacle Bank, Lincoln, NE
Farmers & Merchants Bank, Milligan, NE
Sapp City Bank, Omaha, NE
First National Bank of West Point, West Point, NE
Citizens Bank of Ada, Ada, OK
Legacy Bank TC, Blanchard, OK
FIrst National Bank & Trust Company, Broken Arrow, OK
Bank of Chelsea, Chelsea, OK
First Bank Oklahoma, Claremore, OK
American Bank & Trust, Edmond, OK
InterBank, N.A., Elk City, OK
Liberty Federal Savings Bank, Enid, OK
Fairview Savings & Loan Association, Fairview, OK
First Southwest Bank, Frederick, OK
Stockman's Bank, Gould, OK
City National Bank & Trust Company, Guymon, OK
The Delaware County Bank, Jay, OK
The Bank of Kremlin, Kremlin, OK
First National Bank & Trust of Muskogee, Muskogee, OK
NBC Bank, Pawhuska, OK
Osage FS&LA, Pawhuska, OK
First State Bank & Trust Company, Shawnee, OK
Bank of Commerce, Stillwell, OK
Sooner State Bank, Tuttle, OK
First State Bank, Valliant, OK
Citizens' Bank, Velma, OK
First State Bank, Watonga, OK
Peoples Bank, Westville, OK

Federal Home Loan Bank of San Francisco—District 11

Placer Savings Bank, Auburn, CA
Highland Federal Bank, F.S.B., Burbank, CA
Western Security Bank, Burbank, CA
Mt. Diablo National Bank, Danville, CA
Hawthorne Savings, F.S.B., El Segundo, CA
Murphy Bank, Fresno, CA
Eldorado Bank, Irvine, CA
Downey Savings & Loan Association, Newport Beach, CA
Universal Bank, Orange, CA
Provident Savings Bank, FSB, Riverside, CA
River City Bank, Sacramento, CA
Pan American Bank, FSB, San Mateo, CA
San Rafael Thrift & Loan, San Rafael, CA
Los Padres Savings Bank, FSB, Solvang, CA
Sonoma Valley Bank, Sonoma, CA
Continental Pacific Bank, Vacaville, CA
California State Bank, West Covina, CA
Quaker City Federal Savings & Loan, Whittier, CA

Federal Home Loan Bank of Seattle—District 12

Citizens Security Bank (Guam), Inc., Agana, GU
FirstBank Northwest, Lewiston, ID
First FS&LA of Montana, Hamilton, MT
First National Bank of Lewiston, Lewiston, MT
Empire Federal Savings Bank, Livingston, MT
First Security Bank Missoula, Missoula, MT
Ronan State Bank, Ronan, MT
Linn-Benton Bank, Albany, OR
Pioneer Bank, A F.S.B., Baker City, OR
Evergreen FS&LA, Grants Pass, OR
Bank of Eastern Oregon, Heppner, OR
Inland Empire Bank, Hermiston, OR
Klamath First FS&LA, Klamath Falls, OR
Orchard Bank F.S.B., Ontario, OR
Bank of America, F.S.B., Portland, OR
Pacific One Bank, Portland, OR
American Marine Bank, Bainbridge Island, WA
Riverview Community Bank, Camas, WA
The Bank of Edmonds, Edmonds, WA
Whidbey Island Bank, Oak Harbor, WA
Heritage Savings Bank, Olympia, WA
Olympia FS&LA, Olympia, WA
First FS&LA of Port Angeles , Port Angles, WA
Asia/Europe/Americas Bank, Seattle, WA
Key Bank N.A., Seattle, WA
Washington Mutual Bank, Seattle, WA
Washington Mutual Bank, FSB, Seattle, WA
Farmers & Merchants Bank of Rockford, Spokane, WA
Yakima FS&LA, Yakima, WA
American National Bank of Rock Springs, Rock Springs, WY
The Rock Springs National Bank, Rock Springs, WY
Tri-County Federal Savings Bank, Torrington, WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before January 30, 1999, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1998–99 fourth quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1998–99 fourth quarter review cycle must be delivered to the Finance Board on or before the March 1, 1999 deadline for submission of Community Support Statements.

Dated: January 6, 1999.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–634 Filed 1–14–99; 8:45 am]

BILLING CODE 6725–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 17, 1998.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 17, 1998.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests some moderation in the expansion of economic activity from a brisk pace during the summer months. Growth in nonfarm payroll employment slowed appreciably in September and October; the civilian unemployment rate remained near 4-1/2 percent. Industrial production has declined slightly in recent months. Business inventory accumulation was sizable in the third quarter, and stock-sales ratios rose to uncomfortable levels in some sectors strongly affected by the nation's trade deficit. The nominal deficit on U.S. trade in goods and services widened somewhat in July-August from its second-quarter average. Total retail sales rose sharply in October after increasing only moderately in August and September. Residential sales and building starts have remained quite strong, but below recent peaks. Available indicators point to a pickup in business capital spending after a lull in the third quarter, owing in part to a recovery from the summer strike in the motor vehicle industry. Trends in various measures of wages and prices have been mixed in recent months.

Most market interest rates have risen on balance since the meeting on September 29, though yields on the bonds of lower-rated firms have declined. The Board of Governors approved a reduction in the discount rate from 5 to 4-3/4 percent on October 15. Share prices in U.S. and global equity markets have remained volatile but have posted sizable gains on balance over the intermeeting period. In foreign exchange markets, the trade-weighted value of the dollar declined moderately over the period in relation to other major currencies; it also fell somewhat in terms of an index of the currencies of other countries that are important trading partners of the United States.

M2 and M3 have posted very large gains in recent months, reflecting the effects of recent System easing actions on market interest rates and shifts of funds by households out of investments in equities and lower-rated corporate debt. For the year through October, both aggregates rose at rates well above the Committee's ranges for the year. Expansion of total domestic nonfinancial debt has moderated slightly in recent months after a pickup earlier in the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee reaffirmed at its meeting on June 30-July 1 the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1997 to the fourth quarter of 1998. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1999, the Committee agreed on a tentative basis to set the same ranges for growth of the monetary aggregates and debt, measured from the fourth quarter of 1998 to the fourth quarter of 1999. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks conditions in reserve markets consistent with decreasing the federal funds rate to an average of around 4-3/4 percent. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, a slightly higher federal funds rate or a slightly lower federal funds rate would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with some moderation in the growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, January 4, 1999.

Normand R. Bernard

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 99–906 Filed 1–14–99; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of November 17, 1998, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, January 20, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: January 13, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–1082 Filed 1–13–99; 12:12 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Meeting

The Division of HIV/AIDS Prevention—Intervention, Research and Support (DHAP–IRS), National Center for HIV, STD and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: African American Gay Men's Consultation for HIV Prevention.

Times and Dates: 2 p.m.–6 p.m. January 15, 1999. 9 a.m.–5:30 p.m. January 16, 1999. 9 a.m.–12 p.m. January 17, 1999.

Place: The Radisson Hotel, 1500 Canal Street, New Orleans, Louisiana 70112.

Status: Open to the public for observation and comment, limited only by space

available. The meeting room accommodates approximately 60 people.

Purpose: The purpose of this meeting is to provide a forum for representatives from DHAP–IRS to consult with African American gay men from community-based organizations to discuss technical assistance and training needs of non-governmental organizations that provide HIV prevention services to this highly-impacted population. This regional consultation will be the first of several to assess the technical assistance and training needs of community-based organizations in specific regions and potential strategies for meeting these needs.

Matters to be Discussed: Recommendations regarding effective ways to deliver technical assistance and training to organizations that deliver HIV prevention services to African American men who have sex with men.

Contact Person for More Information: George W. Roberts, Ph.D., Community Assistance, Planning and National Partnerships Branch Division of HIV/AIDS Prevention, Intervention, Research and Support, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, M/S E–58, Atlanta, GA 30333. E-mail to mhj3@cdc.gov.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: January 12, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–1069 Filed 1–14–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Purusant of section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be close to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant application and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: February 22–23, 1999.

Open: February 22, 1999, 8:30 AM to 12:00 PM.

Agenda: Discussion of NHGRI programs and activities.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: February 22, 1999, 1:00 PM to Adjournment on 2/23/99.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Elke Jordan, PHD, Deputy Director, National Human Genome Research Institute, National Institutes of Health, PHS, DHHS, 31 Center Drive, Building 31, Room 4B09, Bethesda, MD 20892, (301) 496–0844.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1008 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: February 3–4, 1999.

Open: February 3, 1999, 10:30 am to 2:00 pm.

Agenda: For the Director's Status Report, presentation on the Applicability of the Freedom of Information Act to Grant Recipients, and a report on the Intramural Program.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: February 3, 1999, 2:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Open: February 4, 1999, 8:00 am to 12:45 pm.

Agenda: For a report on the Geriatrics Program Review, Task Force on Training, Minority Aging Task Force, Working Group on Program and Research Highlights.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: June C. McCann, Committee Management Officer, Office of Extramural Affairs, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1004 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Communication Disorders Review Committee.

Date: February 24–26, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Melissa Stick, Phd, Mph, Scientific Review Administrator, NIH/NIDCD/DEA/SRB, 6120 Executive Blvd (EPS/400), Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1005 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: February 17–19, 1999.

Open: February 17, 1999, 8:30 AM to 10:00 AM.

Agenda: The meeting will be open for discussion of administrative details relating to committee business and program review, and for a report from the Director, Division of Extramural Activities, which will include a discussion of budgetary matters.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Closed: February 17, 1999, 10:00 AM to adjournment on February 19, 1999.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW., Washington, DC 20007.

Contact Person: Justina Schwemberger, Acting Scientific Review Administrator, DEA/SRP, NIAID, Solar Building, Room 4C20, 6003 Executive Boulevard, Bethesda, MD 20892, 301 496–8424, js74g@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 99–1006 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Tile 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology and Infectious Diseases Research Committee.

Date: February 10–12, 1999.

Open: February 10, 1999, 8:00 AM to 9:00 AM.

Agenda: The meeting will be open for discussion of administrative details relating to committee business and program review, and for a report from the Director, Division of Extramural Activities, which will include a discussion of budgetary matters.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.

Closed: February 10, 1999, 9:00 AM to adjournment on February 12, 1999.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, N.W., Washington, DC 20007.

Contact Person: Gary S. Madonna, PHD, Scientific Review Administrator, Room 4C12, Solar Bldg., 6003 Executive Blvd., Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1007 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: February 1, 1999.

Open: 9:00 AM to 2:00 PM.

Agenda: Discussion of program policies and issues.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

Closed: 2:00 PM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

Contact Person: Anne P. Sassaman, PHD, Director, Division of Extramural Research and Training, Executive Secretary, National Institute of Environmental Health Sciences, NIH/PHS, P.O. Box 12233, Research Triangle Park, NC 27709, 919/541–7723.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne J. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1009 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS–W (18).

Date: January 13, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dharam S. Dhindsa, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, dhindsad@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1 ET–1 (04).

Date: January 15, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–ET–1 (04).

Date: January 18, 1999.

Time: 4:00 PM to 6:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 19, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 7, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–1010 Filed 1–14–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–02]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 7, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–712 Filed 1–14–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Withdrawal of Draft Programmatic Environmental Impact Statement for the Proposed Cabazon Resource Recovery Park, Section 6 General Plan, Cabazon Indian Reservation, Indio, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Draft Environmental Impact Statement (DEIS) (63 FR 32238, June 12, 1998) for a proposed general plan and master lease of approximately 590 acres held in trust by the federal government for the Cabazon Band of Mission Indians in Riverside County, California, has been withdrawn. The DEIS described a proposed resource recovery park and industrial area for the recycling, reuse and transformation of waste streams of various types. The DEIS was prepared by the Bureau of Indian Affairs (BIA), in cooperation with the Cabazon Band of Mission Indians and their environmental consultants. The BIA proposes to issue an amended DEIS that addresses specific potential impacts of possible subleases and an expanded range of alternatives.

DATES: The withdrawal is effective February 15, 1999.

ADDRESSES: Address comments on the withdrawal to Ronald M. Jaeger, Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: William Allan, Environmental Protection Specialist, at the above address, or by telephone at (916) 979–2575, extension 254.

SUPPLEMENTARY INFORMATION: The BIA will consider all comments received during the commenting period on the original DEIS or at the public hearing, in preparing the amended DEIS.

This notice is published pursuant to § 1506.6 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: January 7, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–916 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Availability of a Final Environmental Impact Statement for the Proposed Southpoint Power Plant, Fort Mojave Indian Reservation, Mohave County, AZ

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Final Environmental Impact Statement (FEIS) for the proposed approval by the Bureau of Indian Affairs (BIA) of a lease of approximately 320 acres of Indian trust lands on the Fort Mojave Indian Reservation for the purpose of constructing and operating a natural gas fired, 500 megawatt combined cycle power plant and ancillary facilities is now available for final public review. The proposed lease is for a term of 50 years, with an option to renew for an additional 15 years. The proposed plant would provide electrical power for distribution throughout the Western Area Power Administration (WAPA) grid to meet existing demands for electricity. The BIA as the lead agency, with the WAPA and the Fort Mojave Indian Tribe (FMIT) as cooperating agencies, are furnishing this notice pursuant to Sec. 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

DATES: Written comments will be accepted through February 1, 1999. The Record of Decision will be issued on or after February 16, 1999.

ADDRESSES: Address comments to Mr. Wayne Nordwall, Area Director, Bureau of Indian Affairs, Phoenix Area Office, Attn: Environmental Quality Services, P.O. Box 10, Phoenix, Arizona 85001, telephone (602) 379–6750, Fax (602) 379–3833.

Copies of this FEIS may be obtained by contacting Mr. Allen Gross, Hallock/Gross Inc., the environmental consultant, at (602) 967–4356; Ms. Amy Heuslein, BIA Environmental Quality Services, Phoenix Area Office (602) 379–6750; or Ms. Goldie Stroup, Realty Officer, BIA Colorado River Agency (520) 669–7141. Copies of the FEIS have been sent to all agencies and individuals who participated in the scoping process, attended public hearings, commented on the Draft Environmental Impact Statement (DEIS) or otherwise requested copies of the document.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Heuslein at the address indicated above or by telephone at (602) 379–6750.

SUPPLEMENTARY INFORMATION: Calpine Southpoint, Inc. proposes to construct and operate a natural gas fired, 500 megawatt, combined cycle power plant on leased land located in the east half of Section 8, Township 17 North, Range 21 West, Gila and Salt River Base and Meridian, Mohave County, Arizona. In addition to the power plant, there is a proposal for an administrative building and parking areas on a 15 acre compound, a 30 acre evaporation pond, and an approximately 30 acre storm water retention area on the bluffs. A buffer area would be provided around the development. The power plant would use consumptively approximately 4,000 acre feet of water per year from the FMIT's allocation of Colorado River water. Natural gas would be supplied to the site in buried pipelines on rights-of-way across Bureau of Land Management (BLM) land. The power generated by the plant could potentially be wheeled and distributed by facilities of the multi-state federal WAPA, and by local distribution facilities such as those of Arizona Electric Power Cooperative, Needles Electric Company or Aha Macav Power Services.

The FEIS describes the proposed action, alternatives and the affected environment, and evaluates the anticipated impacts of the proposed power plant lease development project. The proposed action is the BIA, FMIT and WAPA's preferred alternative. It is also the least environmentally damaging alternative, as documented in the FEIS.

Two alternatives to the preferred alternative plus the no action alternative have been analyzed and evaluated in the DEIS (May 1998) and FEIS. Under Alternative Two, the proposed power plant would be constructed and operated on 160 acres in the east half of Section 30, T. 18 N., R. 21 W., Gila and Salt River Base and Meridian, Mohave County, Arizona. The site is approximately two and one-half miles northwest of the site of the preferred alternative. The size of the power plant

for Alternative Two would be the same as that for the preferred alternative. All plant facilities, except paved access roads, would be located on top of the bluffs. Natural gas would be available to the plant from the same sources as for the preferred alternative, and would similarly require construction of buried lines across BLM land to the reservation boundary.

Under Alternative Three, the power plant would be built on 160 acres in the western half of Section 16, T. 17 N., R. 21 W., Gila and Salt River Base and Meridian, Mohave County, Arizona. This is immediately to the south of the site of the preferred alternative, and is on the south side of the Davis Dam-Topock Highway. The power plant for Alternative Three would also be the same size as that for the preferred alternative, but all plant facilities would be located on the valley floor. Natural gas would be available to the site from the same sources as for the preferred alternative, and would again require the construction of buried pipelines on rights-of-way across BLM land to the reservation boundary.

The no action alternative would leave the undeveloped land in its natural desert condition. No action would not, however, meet the need for electrical power to supply existing demand locally and in the region. It would also reduce the FMIT's options for economic development.

The BIA has afforded other government agencies and the public ample opportunity to participate in the preparation of this FEIS. In 1994, Nordic Power South Point I Limited Partnership entered into an agreement with FMIT for the proposed action. The BIA published a Notice of Intent to prepare an Environmental Impact Statement in the December 1, 1994, **Federal Register**, then held public scoping meetings on December 19, and 20, 1994, in Needles, California, and Bullhead City, Arizona, respectively.

In early 1997, Nordic Power and FMIT reached an agreement to assign the proposed lease to Calpine Southpoint, Inc. Further opportunity for public participation began with publication in the June 15, 1998, **Federal Register** of the Notice of Availability for the Southpoint Power Plant DEIS. Public hearings followed on July 15, 1998, at FMIT tribal headquarters, Needles, California, and July 16, 1998, at Mojave High School, Bullhead City, Arizona, in order to obtain comments from federal, state, and local agencies and from tribal members and the interested public.

Dated: January 7, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–917 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Distribution of Fiscal Year 1999 Contract Support Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of method of distribution and use of Fiscal Year (FY) 1999 Contract Support Funds (CSF).

SUMMARY: The purpose of this announcement is to issue the Bureau of Indian Affairs (BIA) administrative instructions for the implementation of Public Law (Pub. L.) 93–638, as amended. These administrative instructions are designed to provide BIA personnel with assistance in carrying out their responsibilities when distributing CSF. These instructions are not regulations establishing program requirements.

DATES: The CSF Needs Report for ongoing/existing contracts and annual funding agreements are due on July 15, 1999.

ADDRESSES: Bureau of Indian Affairs, Division of Self-Determination Services, 1849 ''C'' Street, NW., MS–4603–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jim Thomas, Chief, Division of Self-Determination Services, Telephone (202) 208–5727.

SUPPLEMENTARY INFORMATION: A total of $114,871,000 is available in the Operation of Indian Programs (OIP) amount for contract support requirements (excluding construction requirements) during FY 1999. Congressional language authorizes the use of the total amount of CSF ($114,871,000) available in FY 1999 to pay costs of ongoing/existing self-determination and self-governance awards for programs under contract/compact prior to FY 1999. Congressional language prohibits the BIA from entering into any new or expanded self-determination contracts, grants, or self-governance compacts after October 21, 1998, through the end of FY 1999. CSF shall be added to awards made under Sec. 102 and Title IV of the Indian Self-Determination and Education Assistance Act, as amended. Awards made under the authority of Sec. 103 of this Act shall not receive CSF to meet indirect costs.

Basis for Payment of CSF

The BIA may only pay indirect costs attributable to programs included in the BIA's Pub. L. 93–638 awards.

BIA will utilize tribal indirect cost rates to determine the amount of CSF to be paid to eligible contracting tribes and tribal organizations and eligible self-governance tribes and tribal consortia. In determining legitimate indirect cost requirements, each area and self-governance director should fund only those contracting or compacting tribal organizations that have an approved indirect cost rate or indirect cost proposal currently under consideration by the Office of Inspector General. In those instances where a tribe or tribal organization has more than one approved rate or a current proposal under consideration by the Office of the Inspector General, the director should use the most current rate or pending proposals in determining the amount to award. For those tribes who are unable to negotiate an indirect cost rate because of circumstances beyond their control (i.e., which do not have the administrative capability to negotiate a rate), area contract officers may negotiate reasonable lump sum amounts with these tribes.

Ongoing/Existing Contracts/Annual Funding Agreements—Method of Distribution

Each area office will submit a CSF Needs Report to the Central Office for ongoing contracts and annual funding agreements by July 15, 1999. A final distribution of contract support will be made on or about July 31, 1999. CSF will be provided to each area office from the remaining funds available based on these reports. If these reports indicate that $114,871,000 will not be sufficient to cover the entire need, this amount will be distributed pro rata, so that all contractors and compactors receive the same percentage of their reported need.

Should the amount provided for these existing contracts and annual funding agreements prove insufficient, a tribe or group of tribes may wish to reprogram funds to make up deficiencies necessary to recover full indirect costs. This tribal reprogramming authority is limited to funds from within their Tribal Priority Allocation (TPA), or annual funding agreement. Congressional appropriation's language does not provide authority for the BIA to reprogram funds from other BIA programs to meet any CSF shortfalls.

For accounts other than OIP, tribes are not constrained from recovering full indirect costs from within the overall

program and contract support funds awarded for each contracted program.

Each office has been suballotted funds equal to 85 percent of the total amount provided in FY 1998. From this amount each office should award 70 percent of required contract support to each contract/annual funding agreement meeting the criteria established below. The amount of 70 percent is authorized at this time to ensure that all tribes receive the same level of funding should the appropriations be insufficient to pay full indirect costs.

All contractors and self-governance tribes/consortia with either an approved indirect cost rate, current indirect cost proposal, or FY 1999 approved lump sum amount is eligible for 70 percent of the appropriate total amount to be paid with the first allotment of CSF in FY 1999. After the second allotment of CSF is made (approximately July 31, 1999) all contractors and self-governance tribes/consortia should again receive their pro rata share of CSF, based on the amount provided at that time.

An ongoing/existing contract or annual funding agreement is defined as a BIA program operated by the tribal contractor or compactor on an ongoing basis which has been entered into prior to the current fiscal year. An increase or decrease in the level of funding from year to year for such contracts or annual funding agreements would not affect the designation of such contracts or annual funding agreements as being ongoing. An assumption of additional BIA program responsibilities would be required to trigger a change in designation and is prohibited during this fiscal year in accordance with the following language:

Sec. 328. Notwithstanding any other provision of law, none of the funds in this Act may be used to enter into any new or expanded self-determination contract or grant or self-governance compact pursuant to the Indian Self-Determination Act of 1975, as amended, for any activities not previously covered by such contracts, compacts or grants. Nothing in this section precludes the continuation of those specific activities for which self-determination and self-governance contracts and grants currently exist or the renewal of contracts, compacts and grants for those activities; implementation of section 325 of Public Law 105–83 (111 Stat. 1597); or compliance with 25 U.S.C. 2005.

Criteria for Determining CSF Need for Ongoing/Existing Contracts/Annual Funding Agreements

CSF for ongoing and existing contracts/annual funding agreements will be determined using the following criteria:

1. All TPA contracted programs or those programs included in annual funding agreements in FY 1998 and continued in FY 1999, including contracted or annual funding agreement programs moved to TPA in FY 1999, such as New Tribes, Housing Improvement Program, and Road Maintenance.

2. Direct program funding increases due to inflation adjustments and general budget increases.

3. TPA programs started or expanded in FY 1999 that are a result of a change in priorities from other already contracted/annual funding agreement programs.

4. CSF differentials associated with tribally-operated schools that receive indirect costs through the application of the administrative cost grant formula. These differentials are to be calculated in accordance with the criteria prescribed in the Choctaw decision dated September 18, 1992, issued by the Contracting Officer, Eastern Area Office. Copies of this decision can be obtained by calling the telephone number provided in this announcement. Tribes that received differential funding under this category in FY 1998 are eligible to receive funding from this account in FY 1999. Tribes that did not receive differential funding under this category in FY 1998 would not be eligible for funding in FY 1999 due to the Congressional language prohibiting new and expanded contracts in FY 1999.

5. CSF will be distributed to the Office of Self-Governance for ongoing annual funding agreements, on the same basis as area offices.

6. Funds available for Indian Child Welfare Act (ICWA) programs or reprogrammed from ICWA to other programs will be considered ongoing for the purposes of payment of contract support costs.

7. The use of CSF to pay prior year shortfalls is not authorized.

8. Programs funded from sources other than those listed above that were awarded in FY 1998 and are to be awarded in FY 1999 is considered as ongoing.

Dated: December 21, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–915 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–020–09–1220–00–241A]

Notice of Availability of the Squirrel River Final Environmental Impact Statement

SUMMARY: The Northern Field Office of the Bureau of Land Management in Alaska has prepared a final environmental impact statement on a proposal to make the Squirrel River, located in northwestern Alaska, a component of the national wild and scenic rivers system. The Final EIS is available January 15, 1999. The Wild and Scenic Rivers Act identifies the Squirrel River in section 5(a), and requires the Department of the Interior to conduct a study on the suitability of the river as a worthy addition to the national system. That authority was delegated to the BLM. Draft and final environmental impact statements have been prepared because the National Environmental Protection Act calls for their preparation whenever a proposal results from a study process required by statute.

DATES AND LOCATIONS: Written comments must be received or postmarked on or before February 15, 1999.

FOR FURTHER INFORMATION CONTACT: .

General information: Susan Will, (907) 474–2338

Technical information: Lon Kelly, (907) 474–2368

In Kiana and Kotzebue: Randy Meyers, (907) 442–3430

SUPPLEMENTARY INFORMATION: An electronic version of the document is available on the Internet at: http://aurora.ak.blm.gov/squirrel.

Copies of the Final Environmental Impact Statement can be obtained by writing to: Bureau of Land Management, 1150 University Ave., Fairbanks, AK, 99709–3899; or by calling 1–800–437–7021 or (907) 474–2200.

Dated: January 6, 1999.

Lon Kelly,

Squirrel River Coordinator, BLM-Alaska, Northern Field Office.

[FR Doc. 99–941 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1990; CA–40204]

Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment.

SUMMARY: In the **Federal Register** of December 28, 1998 (Vol. 63, Number 248), a notice was published. This amends that notice. Because of expressed interest, the public comment period is extended to March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Kevin Marty or Thomas Zale at (760) 337–4400.

Dated: January 8, 1999.

Elayn Briggs,

Acting Field Manager.

[FR Doc. 99–989 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–1060–04]

Intent To Remove Wild Horses

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to remove wild horses.

SUMMARY: Periodic removals of wild horses are necessary in order to maintain a thriving natural ecological balance on the public rangelands. These removals are intended to bring the populations down to the established AML (Appropriate Management Levels). These AML's were established through the planning process as a result of monitoring and analysis of data in accordance with the National Environmental Policy Act and BLM Policies. This document serves as a Notice of Intent to remove excess wild horses from the following Herd Management Areas (HMA) and from areas outside Herd Management Areas.

Rock Springs Field Office

HMA Divide Basin—remove 266 of an estimated 681. AML is 500 with a range of 415–600. This action would reduce the population to the lower end of the range. Begin approximately February 15, finish November 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Salt Wells Creek HMA—remove 362 from an estimated population of 888. AML is 365 and this action would bring the population closer to AML. Begin approximately February 15, finish November 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Little Colorado HMA—remove 70 of an estimated population of 147. AML is 100 and this action would reduce the herd to 77 horses or 23 below AML. Begin approximately February 15, finish approximately November 15. Decision record EA# WY–048–EA3–87 dated May 19, 1993.

White Mountain HMA—remove 150 of an estimate population of 376. AML is 250 and this action would reduce the herd to 226 horses or 24 below AML. Begin approximately February 15, finish approximately November 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Areas Outside HMAs—remove 152 of 152 horses. This action would remove all horses outside HMAs. Begin approximately February 15, finish approximately November 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Weather conditions and other logistical considerations may dictate when actual removal operations take place. The dates indicated are approximate, and removal may take place in any of the HMAs listed above during anytime of the year with the exception that gathers will not take place between April 16 and July 7, since this is foaling season in Wyoming. Numbers are approximate and will be finalized by aircraft census to be conducted during January/February 1999. All actions are in conformance with Bureau of Land Management Policy, documents listed above, and current monitoring data. These actions represent no new decisions.

FOR FURTHER INFORMATION CONTACT: Bernie Weynand, Assistant Field Manager, Rock Springs Field Office, 280 Hwy. 191 North, Rock Springs, Wyoming 82901, (307) 352–0246.

John S. McKee,

Field Manager.

[FR Doc. 99–6 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Memorandum of Understanding (MOU) Between the Minerals Management Service and the United States Coast Guard

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: Minerals Management Service (MMS) and the United States Coast Guard (USCG) have updated their MOU concerning responsibilities for offshore facilities. The update was necessary to add responsibilities associated with floating facilities, the Oil Pollution Act (OPA), and civil penalties.

DATES: The effective date of the MOU is December 16, 1998.

FOR FURTHER INFORMATION CONTACT: Greg Gould, MMS at (703) 787–1616 or Rajiv Khandpur, USCG at (202) 267–0494.

SUPPLEMENTARY INFORMATION: In August, 1989 the MMS and the USCG signed an MOU that outlined responsibilities associated with facilities located on the Outer Continental Shelf (OCS). The purpose was to minimize duplication, and to promote consistent regulation of these facilities. The use of floating facilities and responsibilities assigned by OPA created a need to update the MOU. Therefore, on January 5, 1998, MMS and USCG published an update of the 1989 MOU (63 FR 256) for public comment. We analyzed those comments and we revised the MOU as shown in Appendix A. We appreciate the excellent comments and suggestions that we received.

We are now implementing the MOU. The following is a sample list of actions that we will be considering in the process:

- Review the standards of both agencies for consistency;
- Determine the need for legislative changes to improve efficiency and clarify the jurisdiction for floating facilities;
- Determine how to make a smooth transition of duties;
- Determine how the certified verification agent program will function;
- Focus on our inspection programs to eliminate duplication;
- Work on safety management including accident investigations to promote safe practices;
- Implement the civil penalties process set out in the MOU;
- Continue to work on single point reporting;
- Communicate electronically;
- Improve the process of reporting and collecting incident data;
- Share incident data to prevent accidents, particularly fatalities;
- In the rare cases when both agencies are conducting a review (i.e., Design, fabrication, installation of non-ship-shape floating facilities), determine how the process will work; and
- Coordinate more research efforts for safety and oil spill prevention and response.

We will be forming many teams with participants from MMS, USCG, and

industry to ensure that implementation of the MOU is provides the most efficient and effective means to manage offshore oil and gas development. We also plan to have meetings/workshops during the MOU implementation process. The current requirements for each agency will remain in effect until new regulations implementing the MOU are promulgated.

Dated: January 8, 1999.

Carolita Kallaur,

Associate Director for Offshore Minerals Management.

Appendix A—Memorandum of Understanding Between Minerals Management Service, U.S. Department of the Interior and United States Coast Guard, U.S. Department of Transportation

Ia. Purpose

This Memorandum of Understanding (MOU) defines the responsibilities of the Minerals Management Service (MMS) and the United States Coast Guard (USCG) relating to managing the activities of MODU's, fixed, and floating systems. It is designed to minimize duplication and promote consistent regulation of facilities under the jurisdiction of both agencies. This MOU does not apply to deepwater ports as licensed by the Secretary of Transportation under the Deepwater Port Act of 1974, as amended.

Ib. Scope

This MOU covers oil and gas activities located in the Outer Continental Shelf (OCS). However, oil-spill preparedness is for facilities located seaward of the coast line, unless noted otherwise. Certificates of financial responsibility are for certain facilities located in the OCS and the State waters included in the definition of Covered Offshore Facility found at 30 CFR 253.3. An MOU, dated February 3, 1994, among the Departments of Transportation and the Interior and the Environmental Protection Agency established jurisdictional responsibilities for facilities located both seaward and landward of the coast line.

II. Definitions

For purposes of this MOU, the following definitions apply:

Act—The OCS Lands Act (OCSLA)—43 U.S.C. 1331 *et seq.*

Coast Line—The line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters, as defined by the Submerged Lands Act (43 U.S.C. 1301 (c)).

Outer Continental Shelf—The submerged lands that are subject to the Act.

OCS Activity—Any activity in the OCS associated with exploration, development, production, transporting, or processing of OCS mineral resources including but not limited to oil and gas.

OCS Facility—Any artificial island, installation, pipeline, or other device permanently or temporarily attached to the seabed, erected for the purpose of exploring for, developing, producing, and transporting resources from the OCS. This term does not include ships or vessels for transporting produced hydrocarbons. The following are types of OCS facilities:

1. *Fixed OCS Facility*—A bottom-founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures. This definition also includes gravel and ice islands and caisson-retained islands engaged in OCS activities used for drilling, production, or both.

2. *Floating OCS Facility*—A buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms, spars, semisubmersibles and shipshape hulls.

3. *Mobile Offshore Drilling Units* (MODU's)—Vessels capable of engaging in drilling operations for exploring or exploiting subsea oil, gas, or mineral resources.

OPA—The Oil Pollution Act of 1990 (Pub. L. 101–380).

Regional Director (RD)—The MMS officer delegated the responsibility and authority for a region within MMS. The USCG referrals for violations occurring in a particular MMS Region would be made to that MMS Region's RD.

Regional Supervisor (RS)—The MMS officer (or the authorized representative) in charge of operations within a Region.

Vessel—Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the water. This term does not include atmospheric or pressure vessels used for containing liquids or gases.

Violation—Failure to comply with the OCSLA, any regulations, or the terms or provisions of leases, licenses, permits, or rights-of-way issued under the OCSLA.

III. Responsibilities

The following table lists the lead agency for system responsibilities associated with MODU's and fixed and floating OCS facilities. Other agency roles are identified where applicable. The lead agency is responsible for coordinating with the other agency as appropriate. The attachments to the table list the typical equipment that is included in the system.

The MMS and USCG will work together to develop the standards necessary to implement this MOU. Where the agencies have overlapping responsibilities, they will work together to minimize duplication.

Item	System	Sub-system	Lead agency			Other agency role/comments
			MODU	Fixed	Floating	
1	Design & Operating Overview/Plan.					
1.a		Deepwater Operating Plan.	N/A	MMS	MMS	Where required.
1.b		Design Basis Document.	USCG	N/A	USCG	
1.c		Design, fabrication, and installation verification plans.	N/A	MMS	MMS	Section applies to MMS's Certified Verification Agent (CVA) Program.
2	Structural Integrity.					
2.a		Structural integrity, modifications for construction and repair requirements.	USCG	MMS	MMS & USCG	USCG responsibilities for fabrication, installation, and inspection of floating units are found in 33 CFR Subchapter N. MMS responsibilities are found in 30 CFR Subpart I. USCG and MMS will each review the design of the turret and turret/hull interface structure for ship-shape floating facilities. All other aspects of the design and fabrication of all ship-shape floating facilities will receive only USCG review. All design, fabrication, and installation activities of all non-ship-shape floating facilities will be reviewed by both agencies.

Item	System	Sub-system	Lead agency			Other agency role/comments
			MODU	Fixed	Floating	
2.b		Design environmental conditions.	USCG	MMS	MMS	Establishes in-place design environmental criteria.
					USCG	Establishes design environmental criteria for intact and damage stability.
2.c		Risers (drilling, production, and pipeline).	MMS	MMS	MMS	Some pipeline risers may be subject to the Research and Special Programs Administration's (RSPA) jurisdiction.
3	Floating Stability.		USCG	N/A	USCG	USCG reviews and approves stability and sends copies to MMS.
4	Station Keeping.					
4.a		Foundations	USCG	MMS	MMS	
4.b		Mooring and tethering systems.	USCG	MMS	USCG & MMS	USCG is not responsible for site specific mooring analyses.
4.c		Dynamic positioning.	USCG	N/A	USCG	
5	Drilling, Completion, Well Servicing & Workover.		MMS	MMS	MMS	See Attachment A for description of Drilling, Completion, Well Servicing & Workover Systems.
6	Production		MMS*	MMS	MMS	See Attachment B for description of Production Systems. *Production equipment is not normally installed on a MODU. However, such equipment may be installed for a finite time and designed for removal. In such cases, MMS is the lead agency.
7	Pipeline Operations and Components.		MMS	MMS	MMS	Note: Certain pipelines are subject to MMS MOU(s) with RSPA.
8	Lightering Equipment & Procedures.		USCG	USCG	USCG	
9	Utility Systems					
9.a		Boilers, pressure vessels, waste heat recovery (from any engine exhaust), water heaters and other piping or machinery.	USCG	MMS	USCG	Listed equipment/systems not supporting drilling or production.
					MMS	Listed equipment/systems supporting drilling or production.
9.b		High pressure (H.P.) washdown.	USCG	MMS	USCG	Listed system components and piping not supporting drilling or production.
					MMS	Listed system components and piping supporting drilling or production.
9.c		Seawater supply.	USCG	MMS	USCG	
9.d		Compressed air.	USCG	MMS	USCG	Listed system components and piping not supporting drilling or production.
					MMS	Listed system components and piping supporting drilling or production.
9.e		Potable wash and sanitary water.	USCG	USCG	USCG	
9.f		Sewage unit & piping.	USCG	USCG	USCG	
9.g		Diesel fuel	USCG	MMS	USCG	
9.h		Bilge & ballast, including pumps and related control systems.	USCG	N/A	USCG	
9.i		Fuel gas from well.	MMS	MMS	MMS	For MODU's and floating facilities, when powering drilling and production systems.
			USCG		USCG	For MODU's and floating facilities, when powering emergency and ship-service systems.

Item	System	Sub-system	Lead agency			Other agency role/comments
			MODU	Fixed	Floating	
10	Elevators for Personnel.	.....	USCG	USCG	USCG	
11	Aircraft Landing and Refueling.	Decks, fuel handling, and storage.	USCG	MMS	USCG	
12	Fire Protection	.....				
12.a	.....	Fire protection, detection, and extinguishing.	USCG	USCG	USCG	See Attachment C for description of Fire Protection, Detection, and Extinguishing. Excludes MMS-regulated safety systems.
2.b	.....	Structural fire protection for accommodations.	USCG	USCG	USCG	
13	Safety Systems	.....				Includes interfaces between fire protection systems and MMS regulated safety systems.
13.a	.....	Emergency shut-down systems.	MMS	MMS	MMS	For MMS required systems. Excludes ''remote stopping devices'' required for USCG-regulated systems.
13.b	.....	Gas detection	MMS	MMS	MMS	
13.c	.....	Drilling, production, well-control safety, and shut-down systems.	MMS	MMS	MMS	
13.d	.....	General alarm	USCG	USCG	USCG	Includes public address system when integrated with general alarm system.
14	Electrical Design & Equipment.	.....				
14.a	.....	Production	MMS*	MMS	MMS	See Attachment B for definition of Production Systems. *Same comment as item #6.
14.b	.....	Drilling systems.	USCG	MMS	USCG	See Attachment A for definition of Drilling Systems.
					MMS *	*MMS is the lead agency for drilling equipment installed for a finite time and designed for removal.
14.c	.....	Emergency lighting power generation and distribution.	USCG	USCG	USCG	
14.d	.....	Hazardous areas classification.	USCG	MMS	MMS and USCG	MMS and USCG will work on common, logical standards to minimize duplication of effort for industry.
15	Aids to Navigation.	.....	USCG	USCG	USCG	
16	Communications	.....	USCG	USCG	USCG	
17	Pollution Prevention.	.....				
17.a	.....	Pollution not associated with vessel transfers.	USCG	USCG	USCG	Garbage and plastics per the International Convention for the Prevention of Pollution from Ships MARPOL 73/78.
			MMS	MMS	MMS	Other Pollution.
17.b	.....	Petroleum and other product transfers to and from a vessel (includes lightering of produced hydrocarbons).	USCG	USCG	USCG	
18	Cranes and Material Handling Equipment.	.....				

Item	System	Sub-system	Lead agency			Other agency role/comments
			MODU	Fixed	Floating	
18.a	.....	Crane design, certification, and operations.	USCG	MMS	USCG	
18.b	.....	Other Material Handling Equip.	USCG	MMS	USCG	
19	Ventilation	.....				
19.a	.....	Accommodations and machinery spaces.	USCG	USCG	USCG	
19.b	.....	Areas other than accommodations or machinery spaces.	USCG	MMS	MMS	
20	Life Saving Equipment.	.....	USCG	USCG	USCG	
21	Workplace Safety and Health.					
21.a	.....	Personnel protection equipment.	USCG	USCG	USCG	
21.b	.....	Hazardous material storage & handling (other than produced hydrocarbons).	USCG	USCG	USCG	
22	Living Quarters and Accommodation Spaces.	.....	USCG	USCG	USCG	Includes permanent and temporary units design & arrangement.
23	General Arrangements.					
23.a	.....	Access/egress & means of escape.	USCG	USCG	USCG	
23.b	.....	Safety plan, fire control or fire equipment, and lifesaving equipment plans.	USCG	USCG	USCG	
24	Miscellaneous Systems and Operational Requirements.	.....				Supplements list of above mentioned systems.
24.a	.....	Structural inspection requirements.	USCG	MMS	USCG	USCG will copy MMS on approvals and compliance records. MMS recommends that USCG at least meet the requirements of the American Petroleum Institute's Recommended Practice 2A (API-RP2A)—Planning, Designing, and Constructing Fixed Offshore Platforms Working Stress Design.
24.b	.....	Personnel requirements for marine and lifesaving operations.	USCG	USCG	USCG	
24.c	.....	Emergency evacuation plans.	USCG	USCG	USCG	
24.d	.....	Drills—fire, abandon, and lifeboat.	USCG	USCG	USCG	

Item	System	Sub-system	Lead agency			Other agency role/comments
			MODU	Fixed	Floating	
24.e	.....	Inspection and testing of all production and drilling equipment.	MMS	MMS	MMS	Includes hydrogen sulfide gas (H2S).
24.f	.....	Inspection and testing of marine and lifesaving equipment.	USCG	USCG	USCG	
24.g	.....	Well-head & platform removal (decommissioning).	MMS	MMS	MMS	
24.h	.....	Safe welding, burning and hot tapping.	MMS	MMS	MMS	
24.i	.....	Diving operations & equipment.	USCG	USCG	USCG	
24.j	.....	H2S contingency plan (including equipment, control, and detection systems).	MMS	MMS	MMS	Includes H2S personnel protection equipment.
25	Investigation—Lead Responsibility:	.....				Agencies to consolidate/standardize and eliminate duplication in reporting and data-collection requirements (see section VIII of this MOU).
25.a	.....	Oil Pollution reportable under the Outer Continental Shelf Lands Act (OSCLA).	MMS	MMS	MMS	Addresses oil pollution reportable under OSCLA.
25.b	.....	Oil Pollution under the Clean Water Act (CWA impact).	USCG	USCG	USCG	Conduct preliminary assessments and follow-on actions in accordance with the National Contingency Plan and investigation into violation of CWA.
25.c	.....	Incidents involving systems under USCG jurisdiction.	USCG	USCG	USCG	
25.d	.....	Incidents involving systems under MMS's jurisdiction.	MMS	MMS	MMS	
26	Administer Shutdown or Resumption of Operation of a Facility.	.....	MMS	MMS	MMS	See Section V, Para C.2 of this MOU for the Federal On Scene Coordinator (FOSC) responsibility for spill response.
27	Safety Analysis	Safety analysis of industrial systems.	USCG	MMS	MMS	For MODU's see the requirements of 46 CFR 58.60–11 and 58.60–13.

Attachment A—Drilling, Completion, Well Servicing and Workover Systems

System requirements for operating the following equipment and systems:

—Drilling, production, and workover risers
—Blowout prevention equipment and control systems
—Drilling system and related relief valves, vent system, pressure vessels and piping, pumps, water systems, safety systems, cementing systems, and circulating systems
—Riser and guideline tensioning systems
—Motion compensation systems
—Instruments and controls
—Atmospheric vessels and piping
—Fitness of the Drilling Unit
—Lifting and hoisting equipment associated with the derrick
—Cementing systems
—Circulating systems, including:
pipes and pumps for mud;
shale shakers; desanders;

degassers.
—Structures including derrick and sub-structure
—Bulk material storage and handling systems
—Other pressurized systems designed for industrial operations

Attachment B—Production Systems

Includes but not limited to the following equipment:

—Hydraulic systems
—Connections between production and workover (industrial) systems
—Production safety systems including subsurface and surface well control
—Relief valves, relief headers, vent and flare systems
—Production wells and wellhead
—Well-handling equipment (contract drilling rig)
—Instrumentation, controls, and measurement (including oil and gas)s
—Gas compression
—Process system and related pumps
—Odorization for gas piped into enclosures
—Process system and related pressure vessels and piping
—Process system and related heat exchangers, including waste heat recovery units
—Chemical injection and treatment systems

Attachment C—Fire Protection, Detection and Extinguishing

Includes the following equipment:

—Deluge systems in the wellbay area
—Firewater pumps, piping, hose reel and monitor equipment
—Foam extinguishing equipment
—Fixed gaseous extinguishing equipment [carbon dioxide(CO2) and halon alternatives]
—Fixed watermist extinguishing equipment
—Portable and semi-portable extinguishers
—Fire and smoke detection (excludes interfaces to MMS regulated safety systems)

IV. Civil Penalties

The USCG reports violations of OCSLA statutes or regulations that may result in civil penalty action to MMS. The USCG will investigate and document OCSLA based violation cases according to the procedures in 33 CFR 140.40 with the following clarification:

1. The cognizant Officer-in-Charge, Marine Inspection (OCMI) makes the determination whether a violation ''constitutes or constituted a threat of serious, irreparable, or immediate harm.'' If the OCMI determines:

a. That it does, then the OCMI will refer the case to MMS and recommend that a civil penalty be assessed.

b. That it does not, then the OCMI will establish a reasonable time for the violator to fix the problem. The OCMI may do this in consultation with MMS, particularly on matters in which MMS has expertise or knowledge of industry practice. If the violator does not correct the problem, or does not file an appeal with the appropriate USCG official in the allotted time, the OCMI will refer the case to MMS, pursuant to 43 U.S.C. 1348(a).

When referring a case to MMS, the OCMI will forward the following information:

i. The case file, which consists of a summary of the investigation and a USCG determination of the regulations violated.

ii. A description of the seriousness of violation and any incidents actually associated with the violation.

iii. If requested, additional information concerning the merits of a civil penalty action. All physical evidence remains with the USCG, but available to MMS upon request.

2. If the violator files an appeal of a USCG's enforcement action the USCG will not forward the case to MMS until the appeal has been resolved.

3. Upon receipt of the violation report, the MMS Regional Civil Penalty Coordinator will appoint a Reviewing Officer (RO) who will process the report in accordance with the MMS OCS Criminal/Civil Penalties Program Guidebook.

4. Notification of the MMS RO's decision regarding the civil penalty assessment, collection, compromise, or dismissal shall be provided to the OCMI originating the violation report.

V. Oil Pollution Responsibilities

A. Certificates of Financial Responsibility (COFR)

1. The MMS issues certifications of oil-spill financial responsibility for certain facilities located in the OCS and State waters included in the definition of Covered Offshore Facility found at 30 CFR 253.3. The COFR ensures that responsible parties can pay for cleanup and damages from facility oil spills.

2. The MMS will provide COFR-related information to the USCG upon request. Upon request from the USCG, MMS will provide available information for any covered OCS facility (COF) in certain OCS and the State waters included in the definition of Covered Offshore Facility found at 30 CFR 253.3 that are involved in an oil pollution incident including:

(1) Copies of the lease, permit, or right of use and easement for the area in which the COF is located;
(2) Contacts for claims;
(3) Agents for service of process;
(4) Amounts guaranteed; and
(5) List of all responsible parties.

3. The USCG issues COFR for vessels and floating OCS facilities which store oil. This COFR is in addition to the MMS COFR and addresses the operator's financial responsibility for the clean up and damages from oil discharges resulting from non-well-related sources and produced oil stored onboard the floating OCS facility.

B. Oil Spill Preparedness and Response Planning

1. The MMS, for all facilities seaward of the coast line, requires that responsible parties maintain approved Oil Spill Response Plans (OSRP) consistent with the area contingency plan; ensures that response personnel receive training; and that response equipment is inspected. The MMS will require unannounced oil-spill response drills. The MMS RS will advise the Federal On Scene Coordinator (FOSC) of drills to coordinate participation, and avoid conflict or duplication.

2. The USCG Captain of the Port serves as the pre-designated FOSC in accordance with the National Contingency Plan. The appropriate FOSC will also jointly approve OSRPs for floating facilities which store oil. Participation in MMS drills will be at the discretion of the FOSC. The FOSC will advise the MMS RS of spill-response drills and activities, such as exercise and response activities, occurring on facilities seaward of the coast line.

C. Spill Response

1. All spills are required to be reported to the National Response Center (NRC). The NRC provides notification to the appropriate agencies and State offices. Additionally, OCS facility owners or operators are required to report spills of one barrel or more to the MMS RS.

2. The FOSC will direct and monitor Federal, State, and private actions, consult with responsible parties, and determine the removal action. The MMS RS will direct measures to abate sources of pollution from an OCS facility. However, if a discharge poses a serious threat to public health, welfare, or the environment, in accordance with Public Law 101–380 (OPA) Sec. 4201, the FOSC may mitigate or prevent the substantial threat of a discharge and notify the MMS RS as soon as possible. The MMS will authorize the return of an OCS facility to operation in coordination with the FOSC.

VI. Exchanging Services and Personnel

To the extent its own operations and resources permit, each agency will provide the other agency with assistance, technical advice, and support, including transportation, if requested in accordance with 43 U.S.C. 1348. Exchange of services and personnel is non-reimbursable (except for pollution removal funding authorizations for incident specific fund access). The assistance may extend to areas beyond the OCS where one Agency's expertise will benefit the other agency in applying and enforcing its safety regulations.

VII. Other Cooperative Functions

1. Both agencies will exchange data and study results, participate in research and development projects, and exchange early drafts of rulemaking notices to avoid duplicative or conflicting requirements.

2. Both agencies will review current standards, regulations, and directives and will propose revisions to them as necessary in keeping with the provisions of this MOU.

3. Both agencies will review reporting and data collection requirements imposed on operators of OCS facilities and, where feasible, eliminate or minimize duplicate reporting and data collection requirements.

4. Each agency will conduct scheduled and unannounced inspections to ensure compliance with its own requirements. If the inspector notices deficiencies that fall within the responsibility of the other agency, the deficiency will be reported to the other agency for action. However, if the deficiency may cause serious or irreparable harm to persons, property, or the environment, the inspector may take the necessary preventative action. The preventative action will then be reported to the other agency.

VIII. Accident Investigations

The MMS or the USCG is responsible for conducting investigations and preparing a public report for each major fire, oil spillage, serious injury, and fatality associated with OCS activities. To avoid duplication of effort and to simplify administration, the responsibility for investigating and preparing a public report for these incidents rests with the agency that is listed in Section III as being responsible for the system associated with the incident. In addition, the MMS investigates blowouts and the USCG investigates collisions.

For those incidents for which both agencies have an investigative interest in the system associated with the incident, one agency will assume lead investigative responsibility with supporting participation by the other agency. The lead agency in a joint investigative effort shall investigate and prepare, approve, and release the report in accordance with the normal procedures of that agency, subject to the following terms and conditions:

1. The lead agency shall be determined through mutual agreement. If mutual agreement is not reached, each agency may decide to conduct its own investigation.

2. The specific details of a supporting agency's participation in a joint investigation shall be determined on a case-by-case basis through mutual agreement.

3. Prior to the public release of a joint agency report, the supporting agency will be afforded an opportunity to comment on the report. If the supporting agency's conclusions and/or recommendations differ with those of the lead agency, either both conclusions and/or recommendations will be included in the lead agency's report in a mutually acceptable manner, or a joint report will not be issued, and each agency may issue separate reports.

IX. Implementing this MOU

1. Each agency will review its internal procedures and, where appropriate, will revise them to accommodate the provisions of this MOU. Each agency will also designate in writing one senior official who will be responsible for coordinating and implementing the provisions of this MOU.

2. Each agency will designate regional officials to be responsible for coordinating and implementing the provisions of this MOU in their respective regions.

3. The USCG—MMS MOU concerning regulation of activities and facilities in the OCS, dated August 29, 1989 is canceled on the effective date of this agreement.

4. If new technology (or new uses of current technology) require a change to this MOU, the MMS regional office and appropriate USCG district will work together to reach an agreement. The MMS regional office and the USCG district will notify their respective Headquarters office of any change. If the MMS regional office and the USCG district office can't reach an agreement, it will be elevated to MMS and USCG Headquarters. The new policy will become part of a revised MOU the next time the MOU is revised.

X. Savings Provision

Nothing in this MOU alters, amends, or affects in any way the statutory authority of MMS or the USCG.

XI. Effective Date

This MOU is effective upon signature.

XII. Termination

Both parties may amend this MOU by mutual agreement and either agency may terminate it with a 30-day written notice.

Signed at Washington, DC, December 16, 1998.

James M. Loy,

Commandant, U.S. Coast Guard, Department of Transportation.

Cynthia Quarterman,

Director, Minerals Management Service, Department of Interior.

[FR Doc. 99–817 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, Maine, Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, February 8, 1999.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at park Headquarters, McFarland Hill, Bar Harbor, Maine, at 1:30 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held September 28, 1998
2. Committee reports
   Land Conservation
   Education
   Park Use
   Science
   Nomination—nomination of officers
3. Old business
4. Superintendent's report
5. Public comments
6. Proposed agenda and date of next Commission meeting

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: January 7, 1999.

Len Bobinchock,

Acting Superintendent, Acadia National Park.

[FR Doc. 99–929 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Joshua Tree National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Joshua Tree National Park Advisory Commission (Commission) will be held from 9:00 am (PDT) until 3:00 pm on Saturday, March 6, 1999, at the Helen Gray Center, on Whitefeather Drive in the village of Joshua Tree, California. The Commission will hear presentations about issues related to the Backcountry and Wilderness Management Plan, which serves as an amendment to the General Management Plan for Joshua Tree National Park, a comprehensive assessment regarding placement of wireless telecommunication facilities (WTF), and an environmental assessment to relocate segments of a military training route over the park.

The Commission was established by Public Law 103–433, section 107 to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Joshua Tree National Park.

Members of the Commission include:

Mr. Chuck Bell: Planner
Ms. Diane Benson: Town of Yucca Valley
Ms. Cyndie Bransford: Recreational Climbing
Mr. Gary Daigneault: Property Owner
Hon. Kathy Davis: County of San Bernadino
Mr. Brian Huse: Conservation
Mr. Michael McCormack: Property Owner
Mr. Julian McIntyre: Conservation
Mr. Roger Melanson: Homeowner
Mr. Ramon Mendoza: Native American Interest
Ms. Leslie Mouriquand: Planner
Mr. Richard Russell: All Wheel Drive Vehicle Interest

Dr. Byron Walls: Mining Interest
Hon. Roy Wilson: County of Riverside
Mr. Gilbert Zimmerman: Tourism

Included on the agenda for this public meeting will be:

Discussion of the Backcountry and Wilderness Management Plan

- designation of a trail system
- designation of unpaved roads
- climbing management
- roadside auto camping
- major artificial water sources for wildlife
- area closures
- establishment of group size limits
- implementation of the Department of the Interior's Desert Tortoise Recovery Plan

A Comprehensive Assessment regarding WTF.

An Environmental Assessment for Proposed Modification of VR–1257

The meeting is open to the public and will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. For copies, please contact Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California 92272 at (760) 367–5502.

Dated: December 29, 1998.

Mary Rissen,

Acting Superintendent.

[FR Doc. 99–930 Filed 1–14–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; United States of America v. Chancellor Media Corporation and Whiteco Industries, Inc.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Chancellor Media Corporation and Whiteco Industries Inc.*, Case No. 1:98CV02875. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act. 15 U.S.C. 16(b)–(h).

The United States filed a civil antitrust Complaint on November 25, 1998, alleging that the proposed acquisition of Whiteco Industries Inc. (''Whiteco'') by Chancellor Media Corporation (''Chancellor'') would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Chancellor and Whiteco compete head-to-head to sell outdoor bulletin advertising in seven counties: (1) Hartford County, Connecticut; (2) Shawnee County, Kansas; (3) Leavenworth County, Kansas; (4) Potter County, Texas; (5) Nolan County, Texas; (6) Westmoreland County, Pennsylvania and (7) Washington County, Pennsylvania (collectively ''the Seven Counties''). Outdoor advertising companies sell advertising space, such as on bulletins, to local and national customers. The outdoor bulletin advertising business in the Seven Counties is highly concentrated. Chancellor through its subsidiary, Martin Media, and Whiteco have a combined share of revenue ranging from about 48 percent to 88 percent in the Seven Counties. Unless the acquisition is blocked, competition would be substantially lessened in the Seven Counties, and advertisers would pay higher prices.

The prayer for relief seeks: (a) An adjudication that the proposed transaction described in the Complaint would violate section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the transaction; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits Chancellor to complete its acquisition of Whiteco, yet preserves competition in the Seven Counties where the transaction raises significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

The proposed settlement requires Chancellor to divest bulletin faces equal to the number of faces operated by Whiteco in:

(1) Hartford County, Connecticut;
(2) Shawnee County, Kansas;
(3) Leavenworth County, Kansas;
(4) Potter County, Texas;
(5) Nolan County, Texas; and
(6) Westmoreland and Washington Counties, Pennsylvania

Unless the plaintiff grants a time extension, Chancellor must divest these outdoor bulletin advertising assets within six (6) months after the filing of the Complaint in this action. Finally, in the event that the Court does not, for any reason, enter the Final Judgment within that six-month period, the divestitures are to occur within five (5) business days after notice of entry of the Final Judgment.

If Chancellor does not divest the bulletin advertising assets in the specified counties within the divestiture period, the Court, upon plaintiff's application, is to appoint a trustee to sell the assets. The proposed Final Judgment also requires that, until the divestitures mandated by the Final Judgment have been accomplished, Chancellor shall take all steps necessary to maintain and operate the bulletin advertising assets as active competitors; maintain the management, staffing, sales and marketing of the bulletin advertising assets; and maintain the bulletin advertising assets in operable condition at current capacity configurations. Further, the proposed Final Judgment requires Chancellor to give the United States prior notice regarding certain future outdoor bulletin advertising acquisitions or agreements pertaining to the sale of outdoor advertising in the Seven Counties.

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, 1401 H Street, NW., Suite 4000, Washington, DC 20530 (telephone: 202–307–0001). Copies of the Complaint, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530 (telephone: 202–514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

(4) Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this stipulation and order.

(5) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(6) In the event (a) the plaintiffs withdraws its consent, as provided in paragraph 2 above, or (b) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(7) Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: November 23, 1998.

For Plaintiff United States of America:

Renée Eubanks,

U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, NW, Suite 4000, Washington, DC 20005, (202) 307–0001.

For Defendant Chancellor Media Corporation:

Bruce Prager

Steven Sculman,

Latham and Watkins, 1001 Pennsylvania Avenue, Suite 1300, Washington, DC 20004, (202) 637–2200.

For Defendants Whiteco Industries, Inc. and Metro Management Associates:

Charles Biggio,

Akin, Gump, Strauss, Hauer & Feld, L.L.P. 590 Madison Avenue, 20th Floor, New York, NY 10022, (212) 672–1000.

So ordered:

_____

United States District Judge

Certificate of Service

I, Renée Eubanks, hereby certify that, on November 25, 1998, I caused the foregoing document to be served on defendants Chancellor Media Corporation, Whiteco Industries, and Metro Management Associates having a copy mailed, first-class, postage prepaid, to:

Bruce J. Prager

Steven H. Schulman,

Latham & Watkins, 1001 Pennsylvania Ave., NW, Suite 1300, Washington, DC 20004, Counsel for Chancellor Media Corporation.

Charles Biggio,

Akin, Gump, Strauss, Hauer & Feld, L.L.P., 590 Madison Avenue, 20th Floor, New York, NY 10022, Counsel for Whiteco Industries, Inc. and Metro Management Associates.

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action of November 25, 1998, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is prompt and certain divestiture of the outdoor advertising assets in the Seven Counties identified below to ensure that competition is substantially preserved;

And whereas, plaintiff requires defendants to make the divestitures for the purpose of maintaining the current level of competition in the sale of outdoor advertising;

And whereas, defendants have represented to the plaintiff that the divestitures ordered herein can and will be made and that defendants will not later raise claims of hardship or difficulty as grounds for asking the Court to modify any of the divestitures contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Judisdiction

This Court has jurisdiction over each of the defendants hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against the defendants, as hereinafter defined, under section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''DOJ means the Antitrust Division of the United States Department of Justice.

B. ''Chancellor'' means defendant Chancellor Media Corporation, a Delaware corporation with its headquarters in Dallas, Texas, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees, including but not limited to Martin Media, L.P. (''Martin''), a limited partnership with its headquarters in Dallas, Texas.

C. ''Martin'' means Martin Media L.P., a limited partnership with its headquarters in Dallas, Texas, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

D. ''Whiteco'' means defendant Whiteco Industries, Inc., a Nebraska corporation with its headquarters in Merrillville, Indiana, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint

ventures, and directors, officers, managers, agents, and employees.

E. ''Metro'' means defendant Metro Management Associates, an Indiana General Partership with its headquarters in Merrillville, Indiana, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

F. ''Defendants'' means Chancellor, Whiteco, and Metro.

G. ''Advertising Assets'' means the outdoor advertising bulletin faces equal in number to, and having approximately the same market and rental value as, the faces owned and operated by Whiteco or Metro, as of the date the complaint in this action is filed, in each of these Seven Counties: (1) Hartford County, Connecticut; (2) Shawnee County, Kansas; (3) Leavenworth County, Kansas; (4) Potter County, Texas; (5) Nolan County, Texas; (6) Westmoreland County, Pennsylvania; and (7) Washington County, Pennsylvania, with the exception of the 23 bulletin faces located on I–70, west of Exit 4 in the county, (collectively ''the Seven Counties''). This includes all tangible and intangible assets used in the sale of outdoor advertising on those bulletin faces in each of the Seven Counties including: All real property (owned or leased); all licenses, permits and authorizations issued by any governmental organization relating to the operation of the bulletin faces; and all contracts, agreements, leases, licenses, commitments and understandings pertaining to the sale of outdoor advertising on those bulletin faces.

H. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom Chancellor and Whiteco divest the Advertising Assets pursuant to this Final Judgment.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each defendant shall require, as a condition of the sale or other disposition of all or substantially all of their outdoor advertising business in any of the Seven Counties, that the Acquirer or Acquirers agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Chancellor is hereby ordered and directed in accordance with the terms of this Final Judgment, within six (6) months after the filing of the Complaint in this matter or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Advertising Assets to an Acquirer (or Acquirers) acceptable to DOJ in its sole discretion.

B. Defendants shall use their best efforts to accomplish the divestitures as expeditiously and timely as possible. DOJ, in its sole discretion, may extend the time period for any divestiture for two (2) additional thirty (30) day periods of time, not to exceed sixty (60) calendar days in total.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Advertising Assets described in this Final Judgment. Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information regarding the Advertising Assets, customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to DOJ at the same time that such information is made available to any other person.

D. Defendants shall permit prospective Acquirers of the Advertising Assets to have reasonable access to personnel and to make such inspection of the physical facilities of the Advertising Assets and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. The defendants shall not take any action that will impede in any way the divestiture of the Advertising Assets.

F. Divestiture of the Advertising Assets may be made to one or more Acquirers, so long as there is only one acquirer for any particular county's assets, and provided that in each instance it is demonstrated to the sole satisfaction of DOJ that the Advertising Assets will remain viable and the divestiture of such advertising assets will remedy the competitive harm alleged in the complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

(1) Shall be made to an Acquirer (or Acquirers) who it is demonstrated to DOJ's sole satisfaction has or have the intent and capability (including the necessary managerial, operational, and financial capability) of competing effectively in the sale of outdoor advertising; and

(2) Shall be accomplished so as to satisfy DOJ, in its sole discretion, that none of the terms of any agreement between an Acquirer (or Acquirers) and Chancellor or Whiteco give Chancellor or Whiteco the ability unreasonably to raise the Acquirer's (or Acquirers') costs, to lower the Acquirer's (or Acquirers') efficiency, or otherwise to interfere with the ability of the Acquirer (or Acquirers) to compete effectively.

V. Appointment of Trustee

A. In the event that defendants have not divested the Advertising Assets within the time specified in Section IV(A) of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by DOJ in its sole discretion to effect the divestiture of the Advertising Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Advertising Assets. The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and X of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures of Advertising Assets at the earliest possible time to an Acquirer (or Acquirers) acceptable to DOJ in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the

assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants as appropriate according to ownership of the assets and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary consents and regulatory approvals. The trustee, and any consultants, accountants, attorneys and other persons retained by the trustee, shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit prospective Acquirers of the Advertising Assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered pursuant to this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestitures; (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished; and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by DOJ.

VI. Notice

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), defendants, without providing advance notification to DOJ, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any outdoor advertising business in any of the Seven Counties that constitute the greater of (i) four bulletin faces, or (ii) $250,000 in bulletin face assets in any one county during a five-year period. For the purposes of this limitation, there shall be two consecutive five-year periods. Acquisitions during each of these five-year periods shall be aggregated, with the first period ending five years after the Final Judgment is entered, and the second period beginning immediately upon the expiration of the first five-year period.

Such notification shall be provided to the DOJ in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about outdoor advertising operations in Seven Counties. Notification shall be provided at least thirty (30) days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of DOJ make a written request for additional information, defendants shall not consummate the proposed transaction or agreement until twenty (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify DOJ, of the proposed divestitures. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that are the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by DOJ of notice, DOJ may request from defendants, the proposed Acquirer (or Acquirers), or any other third party Acquirer or Acquirers additional information concerning the proposed divestitures and the proposed Acquirer or Acquirers. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after DOJ has been provided the additional information requested from defendants, the proposed Acquirer (or Acquirers), and any third party, whichever is later, DOJ shall provide

written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestitures. If DOJ provides written notice to defendants and the trustee that DOJ does not object, then the divestitures may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of the Final Judgment. Absent written notice that DOJ does not object to the proposed Acquirer (or Acquirers) or upon objection by DOJ, a divestiture proposed under Section IV or Section V may not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to DOJ an affidavit as to the fact and manner of compliance with this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a buyer for the Advertising Assets and to provide required information to prospective Acquirers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to DOJ an affidavit that describes in detail all actions they have taken and all steps they have implemented on an on-going basis to preserve the Advertising Assets pursuant to Section IX of this Final Judgment. The affidavit also shall describe, but not be limited to, the efforts of defendants to maintain and operate the Advertising Assets as active competitors; maintain the management, staffing, sales, and marketing of the Advertising Assets; and maintain the Advertising Assets in operable condition at current capacity configurations. Defendants shall deliver to DOJ an affidavit describing any changes to the efforts and actions outlined in their earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, defendants shall preserve all records of all efforts made to preserve the business to be divested and effect the divestitures.

IX. Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished, defendants shall take all steps necessary to maintain and operate the Advertising Assets in Hartford County, Connecticut, and Westmoreland and Washington Counties, Pennsylvania, as active competitors; maintain sufficient management and staffing, maintain sales and marketing of the Advertising Assets; and maintain the Advertising Assets in operable condition at current capacity configurations. In each of the remaining Counties, defendants shall maintain and operate the Advertising Assets as active competitors, such that the sales and marketing of the Advertising Assets shall be conducted separate from, and in competition with, Chancellor's bulletin faces in each of the respective counties; defendants also shall maintain these Advertising Assets in operable condition at current capacity configurations. Defendants shall take no action that would jeopardize the divestitures described in this Final Judgment.

X. Financing

The defendants are ordered and directed not to finance all or any part of any purchase by an Acquirer (or Acquirers) made pursuant to Sections IV or V of this Final Judgment.

XI. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the plaintiff, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendants made to their principal offices, shall be permitted:

(1) Access during office hours of the defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendants and without restraint or interference from any of them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, made to the defendants' principal offices, the defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment.

C. No information or documents obtained by the means provided in Sections VIII or XI of this Final Judgment shall be divulged by a representative of the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the defendants to the plaintiff, the defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by the plaintiff to the defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendants are not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry; however, all Whiteco and Metro obligations under the terms of this Final Judgment cease once Whiteco and Metro irrevocably convey the Advertising

Assets (owned by Whiteco and/or Metro) to be divested by Chancellor pursuant to Section IV.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge

Certificate of Service

I, Renée Eubanks, hereby certify that, on November 25, 1998, I caused the foregoing document to be served on defendants Chancellor Media Corporation, Whiteco Industries, and Metro Management Associates having a copy mailed, first-class, postage prepaid, to:

Bruce J. Prager

Steven H. Schulman,

Latham & Watkins, 1001 Pennsylvania Ave., NW, Suite 1300, Washington, DC 20004, Counsel for Chancellor Media Corporation.

Charles Biggio,

Akin, Gump, Strauss, Hauer & Field, L.L.P., 590 Madison Avenue, 20th Floor, New York, NY 10022, Counsel for Whiteco Industries, Inc. and Metro Management Associates.

Competitive Impact Statement

Plaintiff, the United States of America, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Plaintiff filed a civil antitrust Complaint on November 25, 1998, alleging that a proposed acquisition of Whiteco Industries, Inc. and Metro Management Association (collectively ''Whiteco'') by Chancellor Media Corporation (''Chancellor'') would violate section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Chancellor and Whiteco compete head-to-head to sell outdoor bulletin advertising in seven counties: (1) Hartford County, Connecticut; (2) Shawnee County, Kansas; (3) Leavenworth County, Kansas; (4) Potter Country, Texas; (5) Nolan County, Texas; (6) Westmoreland County, Texas; and (7) Washington County, Texas, (collectively ''the Seven Counties''). Outdoor advertising companies sell advertising space, such as on billboards, to local and national customers. The outdoor advertising business in the Seven Counties is highly concentrated. Chancellor and Whiteco have a combined share of revenue ranging from about 48 percent to a virtual monopoly in the Seven Counties. Unless the acquisition is blocked, competition would be substantially lessened in the Seven Counties, and advertisers would pay higher prices.

The prayer for relief seeks: (a) An adjudication that the proposed transaction described in the Complaint would violate section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the transaction; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits Chancellor to complete its acquisition of Whiteco, yet preserves competition in the Seven Counties where the transaction raises significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

The proposed Final Judgment orders Chancellor to divest outdoor bulletin advertising assets equal in number to, and having approximately the same market and rental value as, the outdoor bulletin advertising assets operated by Whiteco in each of the Seven Counties. In doing so, Chancellor may divest outdoor bulletin advertising assets currently owned by either Whiteco or Chancellor. Unless the plaintiff grants a time extension, Chancellor must divest these outdoor bulletin advertising assets within six (6) months after the filing of the Complaint in this action or within five (5) business days after notice of entry of the Final Judgment, whichever is later.

If Chancellor does not divest the outdoor bulletin advertising assets in the specified counties within the divestiture period, the Court, upon plaintiff's application, is to appoint a trustee to sell the assets. The proposed Final Judgment also requires that, until the divestitures mandated by the Final Judgment have been accomplished in Hartford, Washington and Westmoreland Counties, Chancellor, Whiteco and/or Metro shall take all steps necessary to maintain and operate the outdoor bulletin advertising assets as active competitors; maintain sufficient management and staffing, and maintain sales and marketing of the outdoor bulletin advertising assets; and maintain the outdoor bulletin advertising assets in operable condition at current capacity configurations. In the remaining counties, Chancellor, Whiteco and/or Metro shall take all steps necessary to maintain and operate the outdoor bulletin advertising assets as active competitors, such that the sale and marketing of the assets shall be conducted separate from, and in competition with Chancellor's bulletin faces in the respective counties. Further, the proposed Final Judgment requires Chancellor to give the United States prior notice regarding certain future outdoor advertising acquisitions or agreements pertaining to the sale of outdoor bulletin advertising in the Seven Counties.

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. The Alleged Violations

A. The Defendants

Chancellor, a large nationwide operator of media businesses, including outdoor advertising, is a Delaware corporation headquartered in Dallas, Texas. Chancellor conducts some outdoor advertising business through its subsidiary, Martin Media, L.P. (''Martin''), a limited partnership headquartered in Dallas, Texas. Martin sells outdoor advertising in many states throughout the United States, including in each of the Seven Counties. In 1997 Chancellor's total revenues from outdoor advertising were approximately $78 million.

Whiteco is a Nebraska corporation headquartered in Merrillville, Indiana. Whiteco sells outdoor advertising in 32 states, including in each of the Seven Counties. In 1997, its revenues from outdoor advertising were approximately $6.9 million.

B. Description of the Events Giving Rise to the Alleged Violations

On August 30, 1998, Chancellor entered into an Asset Purchase Agreement with Whiteco. Chancellor agreed to purchase certain assets of Whiteco used or useful in the outdoor advertising business of Whiteco in the United States. The transaction is valued at approximately $930 million.

Chancellor and Whiteco compete for the business of advertisers seeking to obtain outdoor advertising space in the Seven Counties. The proposed acquisition of Whiteco by Chancellor would eliminate that competition in violation of Section 7 of the Clayton Act.

C. Anticompetitive Consequences of the Proposed Transaction

The Complaint alleges that the sale of outdoor advertising in the Seven Counties constitutes a relevant product market and a line of commerce, and that each county constitutes a relevant geographic market and section of the country for antitrust purposes.

Advertisers select outdoor advertising based upon a number of factors including, *inter alia*, the size of the target audience (individuals most likely to purchase the advertiser's products or services), the traffic patterns of the audience, and other audience characteristics. Many advertisers seek to reach a large percentage of their target audience by selecting outdoor advertising on highways and roads where vehicle traffic is high, so that the advertising will be frequently viewed by the target audience, or where the vehicle traffic is close to the advertiser's location. When different firms own outdoor advertising spaces that can efficiently reach that target audience, advertisers benefit from the competition among outdoor advertising providers, who offer better prices or services. Many local and/or national advertisers purchase outdoor advertising because outdoor advertising space is less expensive and more cost-efficient than other media at reaching the advertiser's target audience with the type of advertising message that the advertiser prefers to deliver.

Outdoor advertising has prices and characteristics that are distinct from other advertising media. An advertiser's evaluation of the importance of these characteristics depends on the type of advertising message the advertiser wishes to convey and the price the advertiser is willing to pay to deliver that message. Many advertisers who use outdoor advertising also advertise in other media, including radio, television, newspapers and magazines, but use outdoor advertising when they want a large number of exposures to consumers at a low cost per exposure. Because each exposure is brief, outdoor advertising is most suitable for highly visual, limited information advertising.

For many advertising customers, outdoor advertising's particular combination of characteristics makes it an advertising medium for which there are no close substitutes. Such customers who want or need to use outdoor advertising would not switch to another advertising medium if outdoor advertising prices increased by a small but significant amount. Although some local and national advertisers may switch some of their advertising to other media, rather than absorb a price increase in outdoor advertising space, the existence of such advertisers would not prevent outdoor advertising companies in the Seven Counties from profitably raising their prices a small but significant amount. At a minimum, outdoor advertising companies could profitably raise prices to those advertisers who view outdoor advertising as a necessary advertising medium for them, or as a necessary advertising complement to other media. Outdoor advertising companies negotiate prices individually with advertisers. During individual price negotiations between advertisers and outdoor advertising companies, advertisers provide the outdoor advertising companies with information about their advertising needs, including their target audience and the desired exposure. Outdoor advertising companies thus have the ability to charge advertisers differing rates based in part on the number and attractiveness of competitive outdoor advertising companies that can meet a particular advertiser's specific target needs. Because of this ability to price discriminate among customers, outdoor advertising companies may charge higher prices to advertisers that view outdoor advertising as particularly effective for their needs, while maintaining lower prices for other advertisers.

The Complaint alleges that Chancellor's proposed acquisition of Whiteco would lessen competition substantially in the sale of outdoor advertising in each of the Seven Counties. The proposed transaction would create further market concentration in already highly concentrated markets, and Chancellor would control a substantial share of the outdoor advertising revenues in these markets. Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI''), explained in Appendix A annexed hereto, post acquisition:

a. In Hartford County, Connecticut, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to 100 percent. The approximately post-merger HHI would be 10000, representing an increase of about 4992.

b. In Shawnee County, Kansas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 48 percent. The approximate post-market HHI would be 5008, representing an increase of about 1144.

c. In Leavenworth County, Kansas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 60 percent. The approximate post-merger HHI would be 4130, representing an increase of about 832.

d. In Potter County, Texas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 82 percent. The approximate post-merger HHI would be 6959, representing an increase of about 1050.

e. In Nolan County, Texas, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 76 percent. The approximate post-merger HHI would be 6049, representing an increase of about 1920.

f. In Westmoreland County, Pennsylvania, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 71 percent. The approximate post-merger HHI would be 5454 representing an increase of about 2516.

g. In Washington County, Pennsylvania, Chancellor's share of the outdoor advertising market, based on advertising revenues, would increase to about 88 percent. The approximate post-merger HHI would be 8888 representing an increase of about 1560.

In each of the Seven Counties, Chancellor and Whiteco compete head-to-head and, for many local and/or national advertisers buying space, they are close substitutes for each other. During individual price negotiations, advertisers that desire to reach a certain audience can help ensure competitive prices by ''playing off'' Whiteco against Chancellor. Chancellor's acquisition of Whiteco will end this competition. After the acquisition, such advertisers will be unable to reach their desired audiences with equivalent efficiency without using Chancellor's outdoor advertising. Because advertisers seeking to reach these audiences would have inferior alternatives to the merged entity as a result of the acquisition, the acquisition would give Chancellor the ability to raise prices and reduce the quality of its service to some of its advertisers in each of the Seven Counties.

New entry into the advertising market in response to a small but significant price increase by the merged parties in any of these markets is unlikely to be timely and sufficient to render the price increase unprofitable.

For all of these reasons, plaintiff concludes that the proposed transaction would lessen competition substantially in the sale of outdoor advertising in the Seven Counties, eliminate actual and potential competition between Chancellor and Whiteco, and result in increased prices and/or reduced quality of services of outdoor advertisers in each of the Seven Counties, all in violation of section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve existing competition in the sale

of outdoor advertising space in Seven Counties. It requires the divestiture of bulletin faces equal in number to, and having approximately the same market and rental value as, the number of faces operated by Whiteco in the Seven Counties. Exempt from the divestiture are the 23 bulletin faces located on I–70 west of Exit 4 in Washington County, Pennsylvania. This relief maintains the level of competition that existed premerger and ensures that the affected markets will suffer no reduction in competition as a result of the merger. Advertisers will continue to have alternatives to the merged firm in purchasing outdoor advertising. Finally, the ownership structure is maintained in that the number of competitors who may compete for advertisers' business will remain unchanged.

Unless plaintiff grants an extension of time, the divestitures must be completed within six (6) months after the filing of the Complaint in this matter or within five (5) business days after notice of entry of this Final Judgment by the Court, whichever is later. Until the divestitures take place in Hartford, Washington and Westmoreland Counties, defendants must maintain and operate the advertising assets as active competitors; maintain sufficient management and staffing, maintain sales and marketing of the advertising assets; and maintain the advertising assets in operable condition at current capacity configurations. In the remaining counties, defendants must maintain and operate the advertising assets as active competitors; such that the sales marketing of the assets is conducted separate from, and in competition with the Chancellor's bulletin faces in the respective counties.

The divestitures must be to a purchaser or purchasers acceptable to the plaintiff in its sole discretion. Unless plaintiff otherwise consents in writing, the divestitures shall include all the assets of the outdoor advertising business being divested, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that such assets can and will be used as viable, ongoing commercial outdoor advertising businesses. In addition, the purchaser or purchasers must intend in good faith to continue the operations of the outdoor advertising businesses as were in effect in the period immediately prior to the filing of the Complaint, unless any significant change in the operations planned by a purchaser is accepted by the plaintiff in its sole discretion. This provision is intended to ensure that the outdoor advertising businesses to be divested remain competitive with Chancellor's other outdoor advertising businesses in the Seven Counties.

If defendants fail to divest these outdoor advertising assets within the time periods specified in the Final Judgment, the Court, upon plaintiff's application, is to appoint a trustee nominated by plaintiff to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the advertising assets, and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished. After appointment, the trustee will file monthly reports with the plaintiff, defendants and the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee has not accomplished the divestitures within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished and (3) the trustee's recommendations. At the same time the trustee will furnish such report to the plaintiff and defendants, who will each have the right to be heard and to make additional recommendations.

The proposed Final Judgment contains provisions to ensure that these outdoor advertising assets will be preserved, so that the advertising assets remain viable competitors after divestiture.

The proposed Final Judgment requires Chancellor to provide at least thirty (30) days' notice to the Department of Justice before acquiring more than a *de minimis* interest in any assets of, or any interest in, another outdoor advertising company in the Seven Counties. Such acquisitions could raise competitive concerns but might be too small to be reported otherwise under the Hart-Scott-Rodino (''HSR'') premerger notification statute. Moreover, Chancellor may not agree to sell outdoor advertising space for any other outdoor advertising company in the Seven Counties without providing plaintiff with notice. Thus, this provision in the proposed Final Judgment ensures that the Department will receive notice of and be able to act, if appropriate, to stop any agreements that might have anticompetitive effects in the Seven Counties.

The relief in the proposed Final Judgment is intended to remedy the likely anticompetitive effects of Chancellor's proposed transaction with Whiteco in the Seven Counties. Nothing in this Final Judgment is intended to limit the plaintiff's ability to investigate or to bring actions, where appropriate, challenging other past or future activities of defendants in the Seven Counties.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the plaintiff has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the plaintiff written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The plaintiff will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the plaintiff will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice,

1401 H Street, NW; Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against defendants. Plaintiff is satisfied, however, that the divestiture and other relief contained in the proposed Final Judgment will preserve viable competition in the sale of outdoor advertising space in the Seven Counties. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e).

As the United States Court of Appeals for the D.C. Circuit held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''(t)he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [1] Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *citing United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); *see also Microsoft*, 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree. [2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' [3]

The relief obtained in this case is strong and effective relief that should fully address the competitive harm posed by the proposed transaction.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the plaintiff in formulating the proposed Final Judgment.

Dated: December 16, 1998.

Respectfully submitted,

Renée Eubanks,

Merger Task Force, U.S. Department of Justice, Antitrust Division, 1401 H Street, NW; Suite 4000, Washington, DC 20530, (202) 307–0001.

Exhibit A—Definition of HHI and Calculations for Market

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Merger Guidelines. See Merger Guidelines § 1.51.

Certificate of Service

I, Renée Eubanks hereby certify that, on December 16, 1998, I caused the foregoing document to be served on defendants Whiteco Industries, Inc, Metro Management Associates, and

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), *reprinted in* U.S.C.C.A.N. 6535, 6538.

[2] *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see BNS*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '') (citations omitted).

[3] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd. sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp. at 716 (citations omitted); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Chancellor Media Corporation by having a copy mailed, first-class, postage prepaid, to:

Steven H. Schulman,

Bruce J. Prager,

Latham & Watkins, 1001 Pennsylvania Ave., NW, Suite 1300, Washington, DC 20004, Counsel for Chancellor Media Corporation.

Charles Biggio,

Akin, Gump, Strauss, Hauer & Feld, L.L.P., 590 Madison Avenue, 20th Floor, New York, NY 10022, Counsel for Whiteco Industries, Inc. and Metro Management Associates.

[FR Doc. 99–826 Filed 1–14–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 11, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Women's Bureau, 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: Women's Bureau.

Title: Department of Labor's Business-to-Business Mentoring Initiative on Child/Dependent Care.

OMB Number: 1225–0074 (Extension).

Frequency: One-time response and one-time follow-up.

Affected Public: Business or other for-profit.

Number of Respondents: 1,000.

Estimated Time Per Respondent: 15 minutes for sign-up and 15 minutes for summary report.

Total Burden Hours: 500.

Total Annualized Capital/startup Costs: 0.

Total Annual (operating/maintaining): $0.

Description: The Women's Bureau (WB), through its 10 regional offices, will provide technical assistance to businesses and other employers and facilitate a Mentoring initiative by linking employers who are willing to mentor others on cutting edge child programs with employers that wish to receive Mentoring services. Utilizing the WB Internet website as a matching mechanism, employers willing to mentor can be located by those who need these services. A report of the program's activities will be prepared approximately one year from program implementation.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 99–949 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 25, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not lather than January 25, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 12/21/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,367	Auburn Sportswear (Co.)	Tallassee, AL	12/02/1998	Baseball Jackets.
35,368	Dothan Industries (Co.)	Dothan, AL	11/24/1998	Boxer Shorts.
35,369	Frances Sports Mfg. L.L.C (Co.)	Goldendale, WA	12/03/1998	Snowboards.
35,370	Mademoiselle Knitwear (Workers)	Brooklyn, NY	12/08/1998	Sweaters.

APPENDIX—Continued

[Petitions Instituted on 12/21/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,371	Hamilton Beach (Co.)	Washington, NC	11/30/1998	Electric Housewares.
35,372	Boeing Company (The) (SPEEA)	Wichita, KS	11/18/1998	Aircrafts.
35,373	Sooner Drilling & Explor. (Co.)	Konawa, OK	12/02/1998	Oil, Gas Drilling and Exploration.
35,374	Jinkerson Services (Workers)	El Paso, TX	12/02/1998	Provides Quality Control, Marketing.
35,375	Slater Steels Corp (Workers)	Fort Wayne, IN	12/02/1998	Steel Bars, Stainless Steel.
35,376	Printing Press (The) (Co.)	Palos Heights, IL	11/07/1998	Printed Products.
35,377	Wheeling Pittsburgh Steel (Workers)	Allenport, PA	12/04/1998	Cold Rolled Steel Products.
35,378	Biltmore Textile Co (Workers)	New York, NY	12/02/1998	Textile Fabrics.
35,379	Heckett Multisery (USWA)	Warren, OH	11/30/1998	Steel Mill Services.
35,380	Sharon Tube Co (USWA)	Niles, OH	11/30/1998	Steel Tubing, Electrical Welding Tubing.
35,381	Schneider Mills, Inc (Workers)	Alexander Mills, NC	12/04/1998	Woven Cloth—Acetate, Rayon.
35,382	Coach Leatherware Corp (Workers)	Carlstadt, NJ	11/30/1998	Leather Handbags and Accessories.
35,383	MI Swaco (Workers)	Williston, ND	12/01/1998	Drilling Equipment Rental.
35,384	Techniplast, Inc (UNITE)	Little Falls, NJ	12/03/1998	Custom Injection Molds.
35,385	Rainbow Piece Dye (UNITE)	Fair Lawn, NJ	12/08/1998	Textile Dyeing and Finishing.
35,386	Tavernon Photo Engraving (UNITE)	Patterson, NJ	12/08/1998	Hand Screens for Wall Paper and Fabrics.
35,387	Zenith Electronics Corp (Comp)	Glenview, IL	12/07/1998	Headquarter Office.
35,388	John Deere Consumer Prod. (Comp)	Greer, SC	12/08/1998	Engine Assembly.
35,389	John Deere Consumer Prod. (Comp)	Gastonia, NC	12/08/1998	Engine Assembly.
35,390	Jaunty Textile/A.T.C. (Workers)	Scranton, PA	12/09/1998	Fabrics.
35,391	IRC (Workers)	Boone, NC	07/21/1998	Resistors, Connectors, Relays.
35,392	MagneTek (Comp)	Praire Grove, AR	12/04/1998	Electric Motors.
35,393	Corning Consumer Products (USWA)	Charlerol, PA	12/07/1998	Flatware.
35,394	Ainge Enterprises, Inc (USWA)	Spanish Fork, UT	12/07/1998	Process Scrap Steel.
35,395	Kentucky Textiles West (Workers)	Checotah, OK	12/07/1998	Speedo, Victoria Secret Sportswear.
35,396	Zenith Electronics (Workers)	Melrose Park, IL	12/04/1998	Television Picture Tubes.
35,397	Bonny Products, Inc (Comp)	Washington, NC	12/08/1998	Kitchen Tools and Gadgets.
35,398	Koppel Steel Corp (Workers)	Beaver Fall, PA	12/10/1998	Oil Pipe and Tubing.
35,399	Boeing Co (The) (IAMAW)	Seattle, WA	12/09/1998	Commercial Aircrafts and Parts.
35,400	Kichler Lighting Group (IBEW)	Cleveland, OH	12/08/1998	Lighting Fixtures.
35,401	Nu-Tek Foods, Inc (Workers)	Wapakoneta, OH	12/09/1998	Processed Cheese.
35,402	USX Corp., USS Div. (USWA)	Fairless Hills, PA	12/10/1998	Hot and Cold Rolled Sheet.
35,403	Automotive Products (Comp)	McAllen, TX	12/07/1998	Rack and Pinion Steering Gears.
35,404	AM West Petroleum, Inc (Comp)	Upton, WY	12/09/1998	Crude Oil.
35,405	Snyder Oil Corp (Workers)	Ft. Worth, TX	12/08/1998	Oil and Gas.
35,406	American London (UNITE)	Norwood, MA	12/09/1998	Woolen Material.
35,407	Sonoco Products Co (Comp)	Amsterdam, NY	12/11/1998	Recycled Canboard.
35,408	L and D Dress Co., Inc (Workers)	Ridgewood, NY	12/07/1998	Suits, Dresses.
35,409	Unichem—BJ Services (Workers)	Houston, TX	11/16/1998	Chemicals—Petroleum Industry.
35,410	A. Schulman, Inc (OCAW)	Orange, TX	12/07/1998	Polyurethane Products for Automobiles.
35,411	Dreiling Oil, Inc (Workers)	Hays, KS	12/09/1998	Crude Oil.

[FR Doc. 99–951 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total of partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 25, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 25, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 12/14/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,339	Garden State Tannery (UNITE)	King of Prussia, PA	12/03/1998	Leather Auto Products.
35,340	Chasam, Inc (Co.)	Sylva, NC	12/02/1998	Children's Sleepers.
35,341	Kelly Springfield Tire (Wkrs)	Cumberland, MD	12/01/1998	Passenger Tires, Truck and Farm.
35,342	Co Steel Raritan (Wkrs)	Perth Amboy, NJ	11/28/1998	Billets and Steel Wire Rod.
35,343	Papillon Ribbon and Bow (Wkrs)	New York, NY	11/06/1998	Ribbon, Flower and Bow Designs.
35,344	General Electric (IUE)	Memphis, TN	11/23/1998	Automotive Lamps.
35,345	International Paper (Wkrs)	Ticonderoga, NY	12/01/1998	White Office Reprographic (Copy) Paper.
35,346	Union Tools (Wkrs)	Frankfort, NY	11/25/1998	Rakes, Shovels, Pitchforks.
35,347	National Fruit Products (Wkrs)	Kent City, MI	11/09/1998	Apple Juice, Apple Sauce.
35,348	WCI Steel, Inc (USWA)	Warren, OH	11/30/1998	Hot Rolled and Cold Rolled Steel.
35,349	Youngstown Sinter Plant (USWA)	Youngstown, OH	11/30/1998	Sinter for WCI Steel.
35,350	General Electric Co (Co.)	Hickory, NC	11/19/1998	Residential Distribution Transformers.
35,351	Komatsu America Int'l Co (IAMAW)	Galion, OH	12/08/1998	Motor Graders, Hydraulic Cranes.
35,352	Phoenix Dye Works (UNITE)	Cleveland, OH	12/01/1998	Dyeing of Woven Yarn.
35,353	G.S.M. Enterprises (Wkrs)	Los Angeles, CA	12/04/1998	Ladies' Sportswear.
35,354	Inland Production Co (Wkrs)	Myton, UT	12/03/1998	Oil and Gas.
35,355	U.S. Maine/Bayliner (Wkrs)	Spokane, WA	11/23/1998	Wire Harnesses.
35,356	Inland Wood Products (Co.)	Plummer, ID	11/30/1998	Dimension Lumber.
35,357	Voest Alpine Services (Wkrs)	Lindon, UT	12/03/1998	Flat Coil, Plate and Pipe Steel.
35,358	Alumax E.M.P. (Wkrs)	Bentonville, AR	12/01/1998	Wheels—Speed Star.
35,359	American Fracmaster (Wkrs)	Midland, TX	11/13/1998	Oil Well Services.
35,360	Koch Lable Co. (Co.)	Evansville, IN	12/01/1998	Printed Labels—Rotogravure.
35,361	Trane Company (The) (IUE)	Tyler, TX	12/01/1998	Air Conditioning Compressors.
35,362	Battle Mountain Gold (Wkrs)	Copper Canyon, NV	11/27/1998	Gold Production.
35,363	Eden Apparel, Inc (Co.)	Manchester, TN	12/01/1998	Pajamas and Robes.
35,364	Westark Garment Mfg. (Wkrs)	Magazine, AR	12/01/1998	Jackets.
35,365	Premier Refactories, Inc (USWA)	Snow Shoe, PA	12/03/1998	Refactories Products.
35,366	Bellwether Mfg. Co (Wkrs)	San Francisco, CA	12/02/1998	Sportswear, Raincoats.

[FR Doc. 99–952 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,408]

L & S Dress Co., Inc., Ridgewood, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 21, 1998, in response to a worker petition which was filed on behalf of workers at L & S Dress Co., Inc., Ridgewood, New York.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not been issued (TA–W–35,241). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, DC, this 5th day of January, 1999.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 99–953 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 25, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 25, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of December, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 12/28/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,412	Williamette Industries (Wkrs)	Dallas, OR	12/09/1998	Lumber.
35,413	Connor Sales Co., Inc (Wkrs)	Williston, ND	12/09/1998	Oilfield Storage Tanks.
35,414	Baker Oil Tools (Co.)	Houston, TX	12/10/1998	Oilfield Service Equipment.
35,415	Doyon Drilling (Co.)	Anchorage, AK	12/10/1998	Oilfield Services.
35,416	J.A. Lamy Mfg. Co. (UFCW)	Sedalia, MO	11/30/1998	Men's Levi Jeans.
35,417	Stanley Fastening Systems (Co.)	East Greenwich, RI	12/10/1998	Nails.
35,418	Texfi Industries, Inc (Co.)	Fayetteville, NC	12/16/1998	Weaves, Dyes and Finishes Fabrics.
35,419	Graphic Packaging Corp (Wkrs)	Franklin, OH	11/23/1998	Print Food Packaging.
35,420	Active Product Corp (UAW)	Marion, IN	12/13/1998	Metal Stamping.
35,421	Plynetics Express (Wkrs)	Beaverton, OR	12/07/1998	Phototypes of Various Products.
35,422	Magura USA Corp (Co.)	Olney, IL	12/10/1998	Hydraulic Bicycle Brakes.
35,423	Fair Rite Products Corp (Wkrs)	Springfield, VT	12/11/1998	Assemble Noise Suppressors.
35,424	Cross Creek Apparel (Wkrs)	Hillsville, VA	12/11/1998	Knit Garments.
35,425	Auburn International (Wkrs)	Danvers, MA	12/10/1998	Process Control Instruments.
35,426	Federal Mogul (Co.)	Burlington, IA	11/30/1998	Spark Plugs.
35,427	Santa's Best (Comp)	Manitowoc, WI	12/16/1998	Plush Christmas Decorations.
35,428	Cranston Print Works (Comp)	Webster, MA	12/07/1998	Cotton and Poly/cotton Blended Fabrics.
35,429	Rayovac Corp (Comp)	Appleton, WI	09/18/1998	Batteries.
35,430	Rice Logging, Inc. (Comp)	Council, ID	12/17/1998	Logs for Boise Cascade.
35,431	Premier Sportswear, Inc (Wkrs)	Fall River, MA	12/14/1998	Ladies' Trousers, Skirts and Shorts.
35,432	Illinois Glove Company (Wkrs)	Effingam, IL	12/15/1998	Gloves.
35,433	Sumitomo Machinery Corp. (Wkrs)	Chesapeake, VA	12/18/1998	Speed Reducers.
35,434	Baker Hughes (Wkrs)	Houston, TX	11/30/1998	Oilfield Services.
35,435	Swansea Mfg. Co. (Wkrs)	Swansea, SC	12/19/1998	Swimwear.
35,436	Computed Anatomy, Inc. (Comp)	New York, NY	12/17/1998	Corneal Topographer.
35,437	U.S. Can Company (USWA)	Green Bay, WI	12/12/1998	Aerosol Cans.
35,438	Motorola Ceramic Products (Wkrs)	Albuquerque, NM	12/15/1998	Filters for Beepers and Cellular Phones.
35,439	Southwest Fashion (wkrs)	El Paso, TX	12/16/1998	Pants, Shirts.
35,440	Fiskars Inc. (Wkrs)	Wheaton, MN	12/31/1998	Multiple Electrical Strip Outlets.
35,441	Parker Technology (Wkrs)	Odessa, TX	12/16/1998	Drilling Rig Components.
35,442	Chestnut Hill Marketing (Comp)	Fall River, MA	12/10/1998	Children's Apparel.
35,443	Katzenberg Brothers, Inc (Comp)	Baltimore, MD	12/09/1998	Athletic Clothing.
35,444	Angelica Image Apparel (Comp)	Linden, TN	12/11/1998	Aprons, Patient Gowns, Smocks.
35,445	International Paper (Comp)	Lock Haven, PA	12/15/1998	Office Reprographic (Copy) Paper.

[FR Doc. 99–950 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretry of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT990001 (Jan. 15, 1999)
CT990003 (Jan. 15, 1999)
CT990004 (Jan. 15, 1999)
CT990008 (Jan. 15, 1999)
Massachusetts
MA990016 (Jan. 15, 1999)
Maine
ME990025 (Jan. 15, 1999)
New Jersey
NJ990009 (Jan. 15, 1999)
New York
NY990001 (Jan. 15, 1999)
Rhode Island
RI990006 (Jan. 15, 1999)

Volume II

Maryland
MD990045 (Jan. 15, 1999)
Pennsylvania
PA990004 (Jan. 15, 1999)
PA990042 (Jan. 15, 1999)
PA990050 (Jan. 15, 1999)
Virginia
VA990005 (Jan. 15, 1999)

Volume III

None

Volume IV

None

Volume V

Iowa
IA990002 (Jan. 15, 1999)
IA990005 (Jan. 15, 1999)
New Mexico
NM990001 (Jan. 15, 1999)

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 8th day of January, 1999.

Carl. J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–745 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Consumer Price Index Commodities and Services Survey.''

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 16, 1999.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Under the direction of the Secretary of Labor, the Bureau of Labor Statistics (BLS) is directed by law to collect, collate, and report full and complete statistics on the conditions of labor and the products and distribution of the products of the same; the Consumer Price Index (CPI) is one of these statistics. The collection of data from a

wide spectrum of retail establishments and government agencies is essential for the timely and accurate calculation of the Commodities and Services (C&S) component of the CPI.

The CPI is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is a measure of the average change in prices paid by urban consumers for a fixed market basket of goods and services.

The CPI is used most widely as a measure of inflation, and serves as an indicator of the effectiveness of government economic policy. It also is used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars. A third major use of the CPI is to adjust income payments. Over two million workers are covered by collective bargaining contracts which provide for increases in wage rates based on increases in the CPI.

The continuation of the collection of prices for the CPI is essential since the CPI is the nation's chief source of information on retail price changes. If the information on C&S prices were not collected, Federal fiscal and monetary policies would be hampered due to the lack of information on price changes in a major sector of the U.S. economy, and estimates of the real value of the Gross National Product could not be made. The consequences to both the Federal and private sectors would be far-reaching and would have serious repercussions on Federal government policy and institutions.

II. Current Actions

A new item optimization model for outlet selection will yield larger samples for the 1998 revision over the samples selected for the 1987 revision. Through rotation, the smaller 1987 revision-based samples are being replaced by the larger 1998 revision-based samples. The BLS also plans to shift to a rotation model that results in rotating the full C&S sample in four years, rather than the five-year process currently followed. This change in rotation strategy effectively expands the rotation collection each year, by 25 percent. The impact of using a new item optimization model, constructed to reduce the variance of the CPI, combined with a new four-year rotation cycle, would yield approximately 2,700 additional outlets each year, and would stabilize once full rotation occurs. A limited supplemental collection of prices for use in improving hedonic-based quality adjustments also is planned.

Currently, data for the CPI are recorded on collection schedules by CPI field staff in assigned retail outlets and are mailed to the National Office for processing. A key element for the future is the development of a process to convert all data collection and transmission to electronic systems. When in place, a fully implemented Computer-Assisted Data Collection (CADC) system for the CPI will result in significant advantages by increasing productivity and improving the overall quality of the CPI. Electronic data collection and transmission will provide long-term savings through a major reduction of mail, paper, and printing costs. Electronic systems will provide an opportunity to reduce data capture and review time, and to improve survey logistics management.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Commodities and Services Survey.

OMB Number: 1220–0039.

Affected Public: Business or other for-profit; not-for profit institutions; and State, Local or Tribal Government.

Form No.	Total number of respondents	Frequency	Total annual responses	Minutes per response (average)	Estimated total burden hours
BLS 3400	11,831	Annual	11,831	4	789
BLS 3400A.2	11,831	Annual	11,831	36	7,099
BLS 3400B	11,831	Annual	11,831	23	4,535
BLS 3400C	3,076	Annual	3,076	6.9	354
BLS 3401	37,844	Monthly/Bimonthly	325,530	14.187	76,972
Totals	42,487		337,361	16	89,749

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 12th day of January 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–948 Filed 1–14–99; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Reinstate Without Revision an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request reinstatement of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by March 16, 1999 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 306–1125 x 2017; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf

(TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation Science Honor Awards.

OMB Approval Number: 3145–0035.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Abstract: The National Science Foundation (NSF) administers several honorary awards, among them the President's National Medal of Science, the Alan T. Waterman Award, the NSB Vannevar Bush Award, and the NSB Public Service Award.

Use of the Information: The Foundation has the following honor award programs:

• President's National Medal of Science. Statutory authority for the President's National Medal of Science is contained in 42 U.S.C. 1881 (P.L. 86–209), which established the award and stated that ''(t)he President shall * * * award the Medal on the recommendations received from the National Academy of Sciences or on the basis of such other information and evidence as * * * appropriate.''

Subsequently, Executive Order 10961 specified procedures for the Award by establishing a National Medal of Science Committee which would ''receive recommendations made by any other nationally representative scientific or engineering organization.'' On the basis of these recommendations, the Committee was directed to select its candidates and to forward its recommendations to the President.

In 1962, to comply with these directives, the Committee initiated a solicitation form letter to invite these nominations. In 1979, the Committee initiated a nomination form as an attachment to the solicitation letter. A slightly modified version of the nomination form was used in 1980. The Committee agreed that such a form standardized the nomination format, benefiting the nominator, making the Committee's review process more efficient and permitted better staff work in a shorter period of time. Form NSF–1122 will be used to further standardize the nomination procedures, thus continuing to allow for more effective committee review, and permitting better staff work in a shorter period of time.

The Committee has established the following guidelines for selection of candidates:

1. The total impact of an individual's work on the present state of physical, biological, mathematical, engineering, or social and behavioral sciences is to be the principal criterion.

2. Achievements of an unusually significant nature in relation to the potential effects of such achievements on the development of scientific thought.

3. Unusually distinguished service in the general advancement of science and engineering, when accompanied by substantial contributions to the content of science at some time.

4. Recognition by peers within the scientific community.

5. Contributions to innovation and industry.

6. Influence on education through publications, students, etc.

7. Must be a U.S. citizen or permanent resident who has applied for citizenship.

Nominations remain active for a period of four years, including the year of nomination. After that time, candidates must be renominated with a new nomination package for them to be considered by the Committee.

Nomination forms should be typewritten, single-spaced using a font no smaller than 12 characters per inch. Renominations may be submitted via an updated nomination form.

• Alan T. Waterman Award. Congress established the Alan T. Waterman Award in August 1975 (42 U.S.C. 1881a (P.L. 94–86) and authorized NSF to ''establish the Alan T. Waterman Award for research or advanced study in any of the sciences or engineering'' to mark the 25th anniversary of the National Science Foundation and to honor its first Director. The annual award recognizes an outstanding young researcher in any field of science or engineering supported by NSF. In addition to a medal, the awardee receives a grant of $500,000 over a three-year period for scientific research or advanced study in the mathematical, physical, medical, biological, engineering, social, or other sciences at the institution of the recipient's choice.

The Alan T. Waterman Award Committee was established by NSF to comply with the directive contained in P.L. 94–86. The Committee solicits nominations from members of the National Academy of Sciences, National Academy of Engineering, scientific and technical organizations, and any other source, public or private, as appropriate.

In 1976, the Committee initiated a form letter to solicit these nominations. In 1980, a nomination form was used which standardized the nomination procedures, allowed for more effective Committee review, and permitted better staff work in a short period of time. On the basis of its review, the Committee forwards its recommendations to the Director, NSF, and the National Science Board (NSB).

Candidates must be U.S. citizens or permanent residents and must be 35 years of age or younger or not more than five years beyond receipt of the Ph.D. degree by December 31 of the year in which they are nominated. Candidates should have demonstrated exceptional individual achievements in scientific or engineering research of sufficient quality to place them at the forefront of their peers. Criteria include originality, innovation, and significant impact on the field.

• Vannevar Bush Award. The NSB established the Vannevar Bush Award in 1980 to honor Dr. Bush's unique contributions to public service. The annual award recognizes an individual who, through public service activities in science and technology, has made an outstanding ''contribution toward the welfare of mankind and the Nation.''

The Vannevar Bush Award Committee is periodically established by the NSB to solicit nominations from selected scientific engineering and educational societies. Candidates must be a senior stateperson who is an American citizen and who meets two or more of the following criteria:

1. Who has distinguished him/herself through public service activities in science and technology.

2. Who has pioneered the exploration, charting and settlement of new frontiers in science, technology, education and public service.

3. Whose leadership and creativity have inspired others to distinguished careers in science and technology.

4. Who has contributed to the welfare of the Nation and mankind through activities in science and technology.

5. Whose leadership and creativity have helped mold the history of advancements in the Nation's science, technology, and education.

Nomination submissions should be in letter format, accompanied by a complete biography and a brief citation summarizing the nominee's scientific or technological contributions to our national welfare in promotion of the progress of science. Nominations remain active for three years, including the year of nomination.

• Public Service Award. The NSB established the Public Service Award in November 1996. This annual award recognizes people and organizations who have increased the public understanding of science or engineering. The award may be given to an individual and to a group (company,

corporation, or organization), but not to members of the U.S. Government.

Eligibility includes any individual or group (company, corporation or organization) that has increased the public understanding of science or engineering. Members of the U.S. Government are not eligible for consideration.

Candidates for the individual and group (company, corporation or organization) award must have made contributions to public service in areas other than research, and should meet one or more of the following criteria:

1. Increased the public's understanding of the processes of science and engineering through scientific discovery, innovation and its communication to the public.
2. Encouraged others to help raise the public understanding of science and technology.
3. Promoted the engagement of scientists and engineers in public outreach and scientific literacy.
4. Contributed to the development of broad science and engineering policy and its support.
5. Influenced and encouraged the next generation of scientist and engineers.
6. Achieved broad recognition outside the nominee's area of specialization.
7. Fostered awareness of science and technology among broad segments of the population.

Nomination Procedures

1. Prepare a summary of the nominee's activities as they relate to the selection criteria. Include the nominator's name, address and telephone number, and the name, address, and telephone number of the nominee, as well as the nominee's vita, if appropriate (no more than three pages).
2. The selection committee recommends the most outstanding candidate(s) for each category to the NSB, which approves the awardees.
3. Nominations remain active for a period of three years, including the year of nomination. After that time, candidates must be renominated for them to be considered by the selection committee.
4. Nominations should be mailed or faxed to the NSB Public Service Award Advisory Committee. Electronic mail does not protect confidentiality and should not be used for this purpose. Facsimile copies should be followed up by the original, signed document in order for the nomination to be reviewed by the selection committee.

Estimate of Burden: These are annual award programs with application deadlines varying according to the program. Public burden also may vary according to program; however, it is estimated that each submission is averaged to be 8 hours per respondent for each program. If the nominator is thoroughly familiar with the scientific background of the nominee, time spent to complete the nomination may be considerably reduced.

Respondents: Individuals, businesses or other for-profit organizations, universities, non-profit institutions, and Federal and State governments.

Estimated Number of Responses per Award: 137 responses, broken down as follows: For the President's National Medal of Science, 45; for the Alan T. Waterman Award, 60; for the Vannevar Bush Award, 12; for the Public Service Award, 20.

Estimated Total Annual Burden on Respondents: 1,242 hours, broken down by 450 hours for the President's National Medal of Science (10 hours per 45 respondents); 600 hours for the Alan T. Waterman Award (10 hours per 60 respondents); 72 hours for the Vannevar Bush Award (6 hours per 12 respondents); and 120 hours for the Public Service Award (6 hours per 20 respondents).

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: January 11, 1999.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 99–931 Filed 1–14–99; 8:45 am]

BILLING CODE 7555–01–U

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer & Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer-Communications Research (1192).

Date: February 5, 1999.

Time: 8 a.m.–5 p.m.

Place: Room 330, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Robert B. Grafton, Program Director, Design Automation, CISE/C–CR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical informaiton; financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: January 11, 1999.

Janet Siwa,

Acting Deputy Division Director, Division of Human Resources Management.

[FR Doc. 99–861 Filed 1–14–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Engineering Education and Centers (173).

Date/Time: February 2, 1999, 7:45 a.m. to 5 p.m.

Place: National Science Foundation, Room 310, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Joy Pauschke, Program Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Engineering Research Centers Proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 11, 1999.

Janet Silva,

Acting Deputy Division Director, Division of Human Resource Management.

[FR Doc. 99–862 Filed 1–14–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company (Turkey Point Units 3 and 4); Exemption

I

Florida Power and Light Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR–31 and DPR–41, which authorize operation of Turkey Point Units 3 and 4, respectively (the facility), at a steady-state reactor power level not in excess of 2300 megawatts thermal. The facility is a pressurized-water reactor located at the licensee's site in Dade County, Florida. The licenses require among other things that the facility comply with all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

In exemptions dated March 27, 1984, and August 12, 1987, concerning the requirements of Section III.G, Appendix R to 10 CFR Part 50, the NRC staff approved the use of 1-hour-rated fire barriers in lieu of 3-hour-rated fire barriers in certain outdoor areas at Turkey Point Units 3 and 4. In addition, the staff found that, for certain outdoor areas not protected by automatic fire detection and suppression systems, separation of cables and equipment and associated circuits of redundant trains by a horizontal distance of 20 feet free of intervening combustibles provided an acceptable level of fire safety.

On the basis of the results of the industry's Thermo-Lag fire endurance testing program, the licensee concluded that the outdoor Thermo-Lag fire barrier designs cannot achieve a 1-hour fire-resistive rating but can achieve a 30-minute fire-resistive rating when exposed to a test fire that follows the American Society for Testing and Materials Standard E–119 time-temperature curve. Because of these test results, the licensee in a letter dated June 15, 1994, requested an exemption to use 30-minute fire barriers for outdoor applications in lieu of the 1-hour-rated fire barriers previously approved; however, the licensee withdrew the exemption request by letter dated June 28, 1996.

In a letter dated July 31, 1997, as supplemented on July 2, October 27, and December 9, 1998, the licensee requested an exemption from the requirements pertaining to the 3-hour-rated fire barriers required by Section III.G.2.a, Appendix R to 10 CFR Part 50, for fire zones 79 (partial), 80 (partial), 82, 84 (partial), 85 (partial), 88 (partial), 89 (partial), 91, 92, 105, and 117 in the turbine building. The licensee requested that the NRC approve the following fire protection schemes as alternatives to the protection required by Section III.G.2 of Appendix R to 10 CFR Part 50: (1) separation of cables and equipment and associated circuits of redundant post-fire safe-shutdown trains within the turbine building fire zones 79 (partial), 80 (partial), 82, 84 (partial), 85 (partial), 88 (partial), 91, 92, and 105 between column lines A and E–1 by a fire barrier having a minimum 1-hour fire resistive rating; (2) separation of cables and equipment and associated circuits of redundant post-fire safe-shutdown trains within the turbine building fire zones 79 (partial), 84 (partial), 88 (partial), and 89 (partial) between column lines E–1 and Jc by a fire barrier having a minimum 25-minute fire resistive rating; and (3) separation of cables and equipment and associated circuits of redundant post-fire safe-shutdown trains within the turbine building above the turbine operating deck, fire zone 117, by a fire barrier having a minimum 25-minute fire resistive rating. This request is based on the following: (1) for the turbine building between column lines A and E–1, automatic fixed water suppression systems would be provided for the major fire hazards (combustible sources) and the turbine lube oil equipment, and automatic wet pipe sprinkler protection would be provided for area coverage, including the turbine lube oil distribution piping locations as described in the enclosed safety evaluation; and (2) for the turbine building between column lines E–1 and Jc, an automatic wet pipe sprinkler protection would be provided.

III

The underlying purpose of Section III.G.2.a, Appendix R to 10 CFR Part 50, is to provide reasonable assurance that one safe-shutdown train and associated circuits used to achieve and maintain safe-shutdown are free of fire damage.

On the basis of the staff's supporting safety evaluation of the licensee's submittals, the staff concludes that the exemption from the requirements of Section III.G.2.a of Appendix R to 10 CFR Part 50, for fire zones 79 (partial), 80 (partial), 82, 84 (partial), 85 (partial), 88 (partial), 89 (partial), 91, 92, 105, and 117 as requested by the licensee, provides an adequate level of fire safety and presents no undue risk to public health and safety. In addition, the staff concludes that the underlying purpose of the rule is achieved.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. In addition, the Commission has determined that special circumstances are present in that application of the regulation is not necessary to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants Florida Power and Light Company an exemption from the requirements of Section III.G.2.a of Appendix R to 10 CFR Part 50, as requested in its previously-referenced submittals, for fire zones 79 (partial), 80 (partial), 82, 84 (partial), 85 (partial), 88 (partial), 89 (partial), 91, 92, 105, and 117.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption for fire zones 79 (partial), 80 (partial), 82, 84 (partial), 85 (partial), 88 (partial), 89 (partial), 91, 92, 105, and 117, will not have a significant effect on the quality of the human environment (63 FR 65619).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of December 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–965 Filed 1–14–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–02384]

Finding of No Significant Impact Related To Amendment To Materials License SMB–602, RMI Titanium Company, Extrusion Plant, Ashtabula, Ohio

Approve Decommissioning Criterion for TC–99 in Soils

The U.S. Nuclear Regulatory Commission is considering a license amendment request submitted by RMI Environmental Services, A Division of

RMI Titanium Company (hereafter RMI or the licensee). The proposed action would (1) establish a concentration criterion for technetium-99 (Tc-99) in soil that would allow release of the licensee's extrusion plant site in Ashtabula, Ohio, for unrestricted use, (2) delete the license condition that requires documentation of Thorium-230 (Th-230) levels at the site, and (3) delete the license condition that requires additional financial assurance submittals.

On August 18, 1998, NRC published a Notice of Consideration of Amendment Request for Decommissioning the RMI Titanium Company Site in Ashtabula, Ohio, and Opportunity for Hearing (63 *FR* 44294). NRC did not receive any response to that notice.

Summary of the Environmental Assessment

Background

NRC approved RMI's decommissioning plan on September 11, 1997 (License Amendment No. 8 to License SMB–602, hereafter decommissioning license). To support NRC issuance of RMI's decommissioning license, NRC staff prepared an environmental assessment, titled ''Environmental Assessment Related to the Proposed Decommissioning of the RMI Titanium Company Extrusion Plant Facility in Ashtabula, Ohio'' (Decommissioning EA). The Decommissioning EA includes an evaluation of radiological and non-radiological impacts of the proposed decommissioning of the RMI extrusion plant site.

By license amendment application dated May 13, 1998, RMI requested changes to its decommissioning license for the extrusion plant facility. This amendment (Amendment No. 9) to RMI's license is needed to bring to closure three license conditions on RMI's decommissioning license, namely: establishment of a release criterion for Tc-99 in soil; documentation that site soils are not contaminated with thorium-230; and certification of authority of the signator of the U.S. Department of Energy's statement of intent to fund decommissioning of the site.

The environmental assessment to support License Amendment No. 9 (to amend the decommissioning license) supplements the Decommissioning EA.

Identification of the Proposed Action

In a letter with supporting documentation submitted to NRC on December 16, 1997, the licensee proposed an alternative release criterion of 8.1 Becquerels (Bq) (220 picocuries (pCi)/gram(g) for Tc-99 in soil. RMI's proposal was made to bring to closure (1) License Condition 20.d to RMI's decommissioning license, which requires that RMI establish a release criterion for Tc-99 in soil, and (2) Section 4.1, Radiological Release Criteria, of the Decommissioning EA, which stated that the licensee will provide alternative release criteria for Tc-99 in soils for review by the staff.

License Condition 20.e (of Amendment No. 8; requiring RMI to document that there is no thorium-230 contamination in soils) and License Condition 22 (of Amendment No. 8; requiring additional financial assurance submittals) are proposed to be deleted from the license, since the licensee has provided the requisite information to staff. Deletion of these two license conditions is administrative in nature and meets the categorical exclusion conditions of 10 CFR 51.22(c)(11).

The Need for the Proposed Action

The proposed action is necessary to establish a concentration criterion for Tc-99 in soil that would allow release of the extrusion plant facility for unrestricted use.

Environmental Impacts of the Proposed Action

Section 6.1.1 of the Decommissioning EA describes the short-term radiological impacts resulting from decommissioning of the site.

To determine long-term radiological impacts associated with Tc-99 in soils and release of the site for unrestricted use, the licensee performed RESRAD dose analyses for all pathways, and utilized site specific Kd values as requested by NRC staff. NRC staff reviewed RMI's submittal and also performed independent dose analyses, using RESRAD, for the proposed release criterion.

The dose analyses show that the potential dose from soils containing 8.1 Bq (220 pCi/g) Tc-99 would initially be approximately 0.8 millisieverts (mSv) (80 millirem (mrem))/year (yr), but would decrease to about 0.22 mSv (22 mrem)/yr within three years. The dose would remain around 0.22 mSv (22 mrem)/yr from three to ten years after remediation. Approximately ten years after remediation to 8.1 Bq (220 pCi)/g TC-99, the dose would decrease to near zero. Staff finds the proposed release criterion acceptable, with the license condition that RMI maintain control of soil areas contaminated with Tc-99 until the dose from Tc-99 contaminated soils is less than 0.25 mSv (25 mrem)/yr.

Non-radiological impacts, which are expected to be minimal for decommissioning the site, are addressed in Section 6.1.2 of the Decommissioning EA.

Conclusion

The staff concludes that RMI's proposed action will not cause any significant impact on the human environment and is acceptable. The staff recommends that the proposed action be implemented.

Alternatives to the Proposed Action

Alternatives to the proposed action are addressed in Section 6.2 of the Decommissioning EA.

Agencies Consulted

Staff prepared this environmental assessment. Staff consulted with the Ohio Department of Health, Ohio EPA, and the U.S. EPA for review of this environmental assessment.

Finding of No Significant Impact

Based on the NRC staff's environmental assessment related to amending License SMB–602, the Commission concludes that the proposed action will not have a significant impact on the quality of the human environment.

Accordingly, the Commission has determined not to prepare an Environmental Impact Statement and that a Finding of No Significant Impact is appropriate.

Additional Information

The environmental assessment and the documents related to this proposed action are available for public inspection and copying at the NRC's Public Document Room, 2120 L Street, NW, Washington, DC 20555.

For additional information, contact Dr. Ronald B. Uleck, Project Manager, Materials Decommissioning Section, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, (301) 415–6722.

Dated at Rockville, Maryland, this 6th day of January 1999.

For the U.S. Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–966 Filed 1–14–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Company; Callaway Plant, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30, issued to Union Electric Company (the licensee), for operation of the Callaway Plant, Unit 1 located in Callaway County, Missouri.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the Callaway Plant, Unit 1 technical specifications to allow an increase in the Callaway Plant, Unit 1 spent fuel pool (SFP) storage capacity and to allow storage of an additional 279 fuel assemblies in the cask loading pit.

The proposed action is in accordance with the licensee's application for amendment dated February 24, 1998, as supplemented by letters dated May 27, June 25, August 25, September 3, November 3, and December 4, 1998.

The Need for the Proposed Action

The licensee received its low power operating license on June 11, 1984. At that time, the SFP was authorized to store no more than 1344 fuel assemblies. The licensee's current projections, based on expected future spent fuel discharges, indicate that loss of full-core discharge capability will occur at the end of Cycle 14 in 2004. Operation of Callaway Plant, Unit 1 beyond loss of full-core discharge capability is possible for Cycles 15 and 16 to provide an additional three years of operation until 2007. The licensee has evaluated spent fuel storage alternatives that have been licensed by the NRC and that are currently feasible for use at the Callaway site. The evaluation concludes that reracking is currently the most cost-effective alternative. Reracking would provide an increase in storage capacity to 2642 fuel assemblies, which would maintain the plant's capability to accommodate a full-core discharge, through the end of the current plant license in 2024.

Environmental Impacts of the Proposed Action

Radiological Impacts

Callaway Plant, Unit 1 uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems were evaluated in the Final Environmental Statement (FES) dated January 1982. The proposed SFP expansion will not involve any change in the waste treatment systems described in the FES.

Radioactive Material Released to the Atmosphere

The storage of additional spent fuel assemblies in the SFP is not expected to affect the releases of radioactive gases from the SFP. Gaseous fission products such as Krypton-85 and Iodine-131 are produced by the fuel in the core during reactor operation. A small percentage of these fission gases is released to the reactor coolant from the small number of fuel assemblies that are expected to develop leaks during reactor operation. During refueling operations, some of these fission products enter the SFP and are subsequently released into the air. Since the frequency of refuelings (and therefore the number of freshly offloaded spent fuel assemblies stored in the SFP at any one time) will not increase, there will be no increase in the amounts of these types of fission products released to the atmosphere as a result of the increased SFP fuel storage capacity.

The increased heat load on the SFP from the storage of additional spent fuel assemblies could potentially result in an increase in the SFP evaporation rate, which may result in a slight increase in the amount of gaseous tritium released from the pool. However, the overall release of radioactive gases from Callaway Plant, Unit 1 will remain a small fraction of the limits of 10 CFR 20.1301.

Solid Radioactive Wastes

Spent resins, which are generated by the processing of SFP water through the SFP purification system, are changed about once a year at Callaway Plant, Unit 1. These spent resins are disposed of as solid radioactive waste. The water turbulence caused by the SFP reracking may result in some resuspension of particulate matter in the SFP. This could result in a temporary increase in the resin changeout frequency of the SFP purification system during the SFP reracking operation. The licensee will use a Tri-Nuke underwater filtration unit to clean the floor of the SFP following removal of the old SFP rack modules. Vacuuming of the SFP floor will remove any extraneous debris and crud and ensure visual clarity in the SFP (to facilitate diving operations). Debris and crud will be filtered and stored underwater in special handling baskets purchased for this operation. Additional solid radwaste will consist of the old SFP rack modules themselves as well as any interferences or SFP hardware that may have to be removed from the SFP to permit installation of the new SFP rack modules. Other than the radwaste generated during the actual raracking operation, the staff does not expect that the additional fuel storage made possible by the increased SFP storage capacity will result in a significant change in the generation of solid radwaste at Callaway Plant, Unit 1.

Liquid Radioactive Waste

The release of radioactive liquids will not be affected directly as a result of the SFP modifications. The SFP ion exchanger resins remove soluble radioactive materials from the SFP water. When the resins are changed out, the small amount of resin sluice water that is released is processed by the radwaste system. As stated above, the frequency of resin changeout may increase slightly during the installation of the new racks. However, the amount of liquid radioactivity released to the environment as a result of the proposed SFP expansion is expected to be negligible.

Occupational Doses

Radiation protection personnel will constantly monitor the doses to the workers during the SFP expansion operation. If it becomes necessary to utilize divers for the SFP reracking operation, the licensee will equip each diver with electronic dosimeters with remote, above surface, readouts, which will be continuously monitored by Health Physics personnel. The total occupational dose to plant workers as a result of the SFP expansion operation is estimated to be between 6 and 12 person-rem. This dose estimate is comparable to doses for similar SFP modifications performed at other plants. The upcoming SFP rack installation will follow detailed procedures prepared with full consideration of as low as is reasonably achievable (ALARA) principles.

On the basis of the review of the licensee proposal, the staff concludes that the Callaway Plant, Unit 1 SFP rack installation can be performed in a manner that will ensure that doses to workers will be maintained ALARA. The estimated dose of 6 to 12 person-rem to perform the proposed SFP rack installation is a small fraction of the annual collective dose accrued at Callaway Plant, Unit 1.

Accident Considerations

In its application, the licensee evaluated the possible consequences of a fuel handling accident to determine the thyroid and whole-body doses at the exclusion area boundary (EAB), low population zone (LPZ), and control room. The proposed SFP rack installation at the Callaway Plant, Unit 1 will not affect any of the assumptions or inputs used in evaluating the dose consequences of a fuel handling accident and therefore will not result in an increase in the doses from a postulated fuel handling accident.

The Commission has completed its evaluation of the proposed action and concludes that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the amount or types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historical sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Shipment of Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010, at the earliest. In October 1996, the Administration did commit DOE to begin storing wastes at a centralized location by January 31, 1998. However, no location has been identified and an interim federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping spent fuel to the DOE repository is not considered an alternative to increased onsite spent fuel storage capacity at this time.

Shipment of Fuel to a Reprocessing Facility

Reprocessing of spent fuel from Callaway Plant, Unit 1 is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Therefore, spent fuel would have to be shipped to an overseas facility for reprocessing. However, this approach has never been used and it would require approval by the Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium; reprocessing represents an added cost. The shipment of spent fuel to a reprocessing facility is not an acceptable alternative because of increased fuel handling risks and additional occupational exposure.

Shipment of Fuel to Another Utility or Site for Storage

The shipment of fuel to another utility for storage would provide short-term relief from the storage problem at Callaway Plant, Unit 1. The Nuclear Waste Policy Act and 10 CFR Part 53, however, clearly place the responsibility for the interim storage of spent fuel with each owner or operator of a nuclear plant. The shipment of fuel to another source is not an acceptable alternative because of increased fuel handling risks and additional occupational radiation exposure, as well as the fact that no additional storage capacity would be created.

Reduction of Spent Fuel Generation

Operation at a reduced power level would decrease the amount of fuel being stored in the pool and thus increase the amount of time before full core off-load capacity is lost. However, operating the plant at a reduced power level would not make effective use of available resources, and would cause unnecessary economic hardship on Union Electric Company and its customers. Therefore, reducing the amount of spent fuel generated by reducing power is not considered a practical alternative.

Development of Onsite Storage Facility

An independent spent fuel storage installation (ISFSI) is licensed under 10 CFR Part 72. It is a passive storage system which stores spent fuel in dry casks on a concrete platform in a secured area. There are no commercial ISFSIs operating in the United States. Although use of an ISFSI provides benefits, the site-specific development of an independent dry fuel storage facility at Callaway Plant, Unit 1 was deemed undesirable by the licensee compared to the use of the higher density spent fuel racks. Furthermore, construction of such a facility would not use the existing expansion capacity of the existing Callaway Plant, Unit 1 SFP and would have the potential to cause additional and different environmental impacts due to activities related to construction and operation. Development of a site-specific ISFSI at this time and in response to the licensee's current needs would waste available resources.

The staff also considered denial of the proposed action (no-action alternative). Denial of the application would result in no change in current environmental impacts.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Callaway Plant, Unit 1 dated January 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on January 11, 1999, the staff consulted with the Missouri State official, Mr. Tom Lange of the Missouri Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 24, 1998, as supplemented by letters dated May 27, 1998, June 25, 1998, August 25, 1998, September 3, 1998, November 3, 1998, and December 4, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Missouri—Columbia, Elmer Ellis Library, Columbia, Missouri, 65201–5149.

Dated at Rockville, Maryland, this 11th day of January 1999.

For the Nuclear Regulatory Commission.

Mel Gray,

Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99–967 Filed 1–14–99; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Collection of Information for OMB Review Under the Paperwork Reduction Act; Comment Request; Customer Satisfaction Surveys and Focus Groups

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation intends to request that the Office of Management and Budget extend its approval of a collection of information under the Paperwork Reduction Act. The purpose of the information collection, which will be conducted through focus groups and surveys over a three-year period, is to help the PBGC assess the efficiency and effectiveness with which it serves its customers and to design actions to address identified problems. The effect of this notice is to advise the public of, and to solicit public comment on, this proposed collection of information.

DATES: Comments should be submitted by March 16, 1999.

ADDRESSES: All written comments should be addressed to: Office of General Counsel, Pension Benefit Guaranty Corporation, Suite 340, 1200 K St. NW., Washington, D.C. 20005. The comments will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005, 202–326–4026. (This not a toll-free number.) (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024).

SUPPLEMENTARY INFORMATION: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC is requesting that OMB extend its approval, for a three-year period, of a generic collection of information consisting of customer satisfaction focus groups and surveys (OMB control number 1212–0053; expires April 30, 1999). The collection is in furtherance of the goals described in Executive Order 12862, Setting Customer Service Standards, which states that, in order to carry out the principles of the National Partnership for Reinventing Government (formerly, the National Performance Review), the Federal Government must be customer-driven. The Executive Order directs all executive departments and agencies that provide significant services directly to the public to provide those services in a manner that seeks to meet the customer service standards established in the Executive Order.

In transforming itself into a customer-driven agency, the PBGC has made use of a variety of tools for listening to customers, including focus groups and customer satisfaction surveys. Feedback from these contacts keeps the PBGC informed about customer service needs and expectations, and gauges how well customers think the PBGC is meeting those needs. The PBGC will keep these avenues of customer communications open, and add to and refine what has been learned to date. In this way service to customers can be continually improved.

This collection of information enables the PBGC to explore issues of mutual concern (*e.g.*, kind and quality of desired services) with its major outside client groups, *i.e.*, participants and beneficiaries, plan sponsors and their affiliates, plan administrators, pension practitioners and others involved in the establishment, operation and termination of plans covered by the PBGC's insurance program. The areas of concern to the PBGC and its client groups change over time, and it is important that the PBGC have the ability to evaluate customer concerns quickly.

Participation in the focus groups and surveys will be voluntary. The PBGC will consult with OMB regarding each specific information collection during the approval period.

This voluntary collection of information will put a slight burden on a very small percentage of the public. The PBGC expects to conduct focus groups involving a total of approximately 225 persons each year, with a total annual burden of approximately 675 hours, including travel time. (Some portion of this time may be spent completing surveys at focus group meetings.) In addition, the PBGC expects to distribute written surveys to approximately 1,600 persons each year (in most cases as an adjunct to a focus group), with a total annual burden of approximately 200 hours.

The PBGC is specifically seeking public comments to:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Issued at Washington, DC, this 12th day of January, 1999.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 99–1003 Filed 1–14–99; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in January 1999. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in February 1999. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062

and multiemployer withdrawal liability under part 4219 apply to interest accruing during the first quarter (January through March) of 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in January 1999 is 4.30 percent (*i.e.*, 85 percent of the 5.06 percent yield figure for December 1998).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between February 1998 and January 1999.

For premium payment years beginning in	The assumed interest rate is
February 1998	4.94
March 1998	5.01
April 1998	5.06
May 1998	5.03
June 1998	5.04
July 1998	4.85
August 1998	4.83
September 1998	4.71
October 1998	4.42
November 1998	4.26
December 1998	4.46
January 1999	4.30

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the first quarter (January through March) of 1999, as announced by the IRS, is 7 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From—	Through—	Interest rate (percent)
10/1/92	6/30/94	7
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	12/31/96	9
1/1/97	3/31/97	9
4/1/97	6/30/97	9
7/1/97	9/30/97	9
10/1/97	12/31/97	9
1/1/98	3/31/98	9
4/1/98	6/30/98	8
7/1/98	9/30/98	8
10/1/98	12/31/98	8
1/1/99	3/31/99	7

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the first quarter (January through March) of 1999 (*i.e.*, the rate reported for December 15, 1998) is 7.75 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Rate (percent)
10/1/92	6/30/94	6.00
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	12/31/96	8.25
1/1/97	3/31/97	8.25
4/1/97	6/30/97	8.25
7/1/97	9/30/97	8.50
10/1/97	12/31/97	8.50
1/1/98	3/31/98	8.50
4/1/98	6/30/98	8.50
7/1/98	9/30/98	8.50
10/1/98	12/31/98	8.50
1/1/99	3/31/99	7.75

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in February 1999 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 11th day of January 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–938 Filed 1–14–99; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

Notice of Meeting

AGENCY: Postal Service.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of State will hold a briefing meeting January 26, 1999, for the public and for U.S. government agency representatives on international postal issues in the Universal Postal Union (UPU). The meeting is part of the process of formulating U.S. policies in preparation for the Universal Postal Union Congress to be held in Beijing, China from August 23 through September 15, 1999. The agenda will include briefings on the World Customs Organization and plans

for a joint World Customs Organization-UPU survey, and a review of current proposals within the UPU for changes to the terminal dues system. Participants will have an opportunity to express views during the meeting. Written comments on subjects to be covered at the meeting will be accepted at any time before or after this meeting and will be made available to interested parties.

Meeting date and time: January 26, 1999, 2:00–5:00 p.m.

Meeting place: Room 1107, 2201 ''C'' Street N.W., Washington, DC 20520–0001.

FOR FURTHER INFORMATION CONTACT: Ann Galer Ryan, (202) 647–1526.

Written submissions should be sent to: UPU Action Officer, IO/T, Room 5336, Department of State, Washington, DC 20520–0001, Fax: (202) 647–8902.

SUPPLEMENTARY INFORMATION: Individuals or organization representatives with a substantive interest in international postal policies in the UPU may request to attend the meeting and join in the discussions. Entry into the State Department is controlled. Persons wishing to attend must send a fax to Cynthia Proctor at (202) 314–7160 no later than noon January 22, 1999, including the name of the meeting, individual's name, affiliation, social security number and date of birth. One of the following valid photo identifications will be required for admittance: U.S. driver's license, U.S. passport, or U.S. government identification (company identifications are not accepted by Diplomatic Security). Enter from the ''C'' Street lobby of the Department of State.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–924 Filed 1–14–99; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40889; File No. SR–MBSCC–98–04]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Year 2000 Testing

January 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 24, 1998, MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') and on January 5, 1999, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, MBSCC will require certain MBSCC participants to conduct Year 2000 testing with MBSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC 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. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to add an addendum to MBSCC's rules regarding: participants that are required to conduct Year 2000 testing with MBSCC, participants that are exempt from Year 2000 testing with MBSCC, the scope of Year 2000 testing with MBSCC, reporting by participants, and remedial action for non-compliance.

Participants Required To Conduct Year 2000 Testing

All participants in MBSCC's Comparison and Clearing System (''clearing participants'') and Electronic Pool Notification (''EPN'') System (''EPN participants'') with automated interfaces (*i.e.*, computer-to-computer interfaces and PC interfaces that use file uploads and downloads) to MBSCC are required to conduct Year 2000 testing with MBSCC.

Participants Exempt From Year 2000 Testing With MBSCC

Clearing participants and EPN participants that are terminal service (*i.e.*, PC interfaces that do not use file uploads and downloads) only users are exempt and are not required to conduct Year 2000 testing with MBSCC.

Scope of Year 2000 Testing With MBSCC

Year 2000 testing is being conducted directly between MBSCC and clearing participants and EPN participants that are required to test with MBSCC. MBSCC, in consultation with the Mortgage-Backed Securities Focus Group of the Securities Industry Association (''SIA'') Year 2000 Committee, determined not to participate in the industry-wide SIA Year 2000 tests due to the uniqueness of mortgage-backed securities. Instead, MBSCC's Year 2000 tests require clearing participants and EPN participants that are required to test with MBSCC to execute a test script designed to exercise functionality with MBSCC in a Year 2000 environment.

MBSCC conducted Year 2000 tests with certain clearing participants and EPN participants on June 6, 13, 25, and 27, 1998 (''June 1998 test'') and October 3, 10, 17, 22, and 24, 1998, (''October 1998 test''). Clearing participants and EPN participants that successfully tested with MBSCC in the June 1998 test or in the October 1998 test or in both are not required to participate in additional Year 2000 testing with MBSCC.

MBSCC has scheduled an additional Year 2000 test cycle for clearing participants and EPN participants with automated interfaces to MBSCC that have not successfully tested with MBSCC. The additional Year 2000 test cycle is scheduled for January 30, February 6, February 20, February 25, and February 27, 1999.

MBSCC intends to conduct additional Year 2000 tests during 1999 and will advise clearing participants and EPN participants of the specific test dates by Administrative Bulletin.

MBSCC will determine whether a clearing participant or EPN participant has successfully tested with MBSCC based on the participant's satisfactory execution of the test script described above and based on timely and satisfactory completion of the testing survey described below. MBSCC will advise each clearing participant and EPN participant whether it has successfully tested with MBSCC. MBSCC may also periodically publish by Administrative Bulletin a list of the clearing participants and EPN participants that have successfully tested with MBSCC.

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

[2] The Commission has modified the text of the summaries prepared by MBSCC.

Reporting by Participants

Clearing participants and EPN participants that are required to participate in Year 2000 testing with MBSCC must promptly provide MBSCC with a testing survey upon completion of Year 2000 testing. The survey must be in the form prescribed by MBSCC, must be signed by a senior officer, and must indicate whether it is satisfied with the testing results and describing the processing environment in which the test was executed. Clearing participants and EPN participants that are required to participate in Year 2000 testing with MBSCC also must promptly provide MBSCC with such other information relating to the testing survey as MBSCC may require.

Remedial Action for Non-compliance

Each clearing participant that does not successfully participate in the scheduled tests will be required to post an increased minimum market margin differential deposit with MBSCC beginning October 1, 1999. The increased minimum market margin differential deposit will be as follows: October 1, 1999—100 additional basis points of net position; November 1, 1999—200 additional basis points of net position; December 1, 1999—300 additional basis points of net position; and January 3, 2000—300 additional basis points of net position. On and after February 1, 2000, MBSCC will have the authority to continue to require 300 additional basis points of net position if a clearing participant that has not successfully participated in the scheduled tests does not demonstrate adequate operational capabilities to process trades in the Year 2000. The increased minimum market margin differential deposit is designed to provide additional collateral that can be used if the clearing participant that has not successfully participated in the scheduled tests is unable to process trades due to Year 2000 problems.

MBSCC has the discretion to convert trades for settlement in the Year 2000 and destined for netting of clearing participants that do not successfully participate in the scheduled tests to trade-for-trade status. MBSCC also has the discretion to continue to convert trades destined for netting to trade-for-trade status if a clearing participant that has not successfully participated in the scheduled tests does not demonstrate adequate operational capabilities to process trades in the Year 2000. The conversion of trades destined for netting to trade-for-trade status is designed to eliminate the risk of a clearing participant being paired-off as a result of the netting process with a clearing participant that has not successfully tested with MBSCC.

MBSCC will enforce the EPN user agreement that requires all pool notification information to be submitted through EPN regardless of whether an EPN participant has successfully participated in the scheduled tests. If an EPN participant that has not successfully participated in the scheduled tests has processing difficulties, it will need to use EPN terminal service to receive the message thereby not impacting the sending EPN participant. MBSCC will have additional terminals available at its site as a contingency for those EPN participants that experience processing difficulties. Enforcement of the EPN user agreement is designed to ensure that an EPN participant sending a message to an EPN participant that has not successfully participated in the scheduled tests will benefit from the Bond Market Association's good delivery guidelines.

The proposed addendum also contains a statement that it is in addition to and not a limitation of MBSCC's rights pursuant to its rules and procedures. The proposed addendum to MBSCC's rules will automatically expire at such time as MBSCC determines that clearing participants and EPN participants demonstrate adequate operational capabilities to process trades in the Year 2000. MBSCC will advise clearing participants and EPN participants of such determination by Administrative Bulletin.

MBSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[3] which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on/Burden on Competition

MBSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

MBSCC advised participants of the proposed rule change by Administrative Bulletins dated July 28, 1998, and September 18, 1998. No written comments relating to the proposed rule change have been received. MBSCC will notify the Commission of any written comments received by MBSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[4] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this obligation because the required Year 2000 testing with MBSCC should help MBSCC to address potential problems associated with certain members' Year 2000 readiness. As a result, MBSCC should be able to continue to provide for the prompt and accurate clearance and settlement of securities transactions before, on, and after Year 2000 without interruption.

MBSCC requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing because such approval will allow MBSCC to implement its mandatory Year 2000 testing program in a timely manner.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] 15 U.S.C. 78q-1(b)(3)(F).

filing will also be available for inspection and copying at the principal office of MBSCC. All submissions should refer to the File No. SR–MBSCC–98–04 and should be submitted by February 5, 1999.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–MBSCC–98–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–922 Filed 1–14–99; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40887; File No. SR–NYSE–98–48]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval to Proposed Rule Change by the New York Stock Exchange, Inc. Instituting A Pilot Program To Amend Paragraph 902.02 of the Exchange's Listed Company Manual and Requested Permanent Approval of the Pilot Program

January 6, 1999.

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 December 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 and II below, which Items have been prepared by the NYSE. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the portion of the proposed rule change instituting a three-month pilot program pending the Commission's review of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement a three-month pilot program (the ''Pilot'') to amend Paragraph 902.02 of the Exchange's Listed Company Manual (the ''Manual''). In addition, the Exchange seeks permanent approval of the proposed amendments to Paragraph 902.02 of the Manual. Paragraph 902.02 of the Manual contains the schedule of current listing fees for companies listing securities on the Exchange.

The text of the proposed rule change is available at the Office of the Secretary, 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 III below. The NYSE 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 proposed rule change amends the listed company fee schedule, set forth in Paragraph 902.02 of the Manual, as it applies to certain business combinations. Specifically, the Exchange is codifying its long-standing interpretation of the term ''amalgamation,'' and deleting language inconsistent with the application of that definition. Further, the Exchange is making non-substantive clarifications to the provision of the Manual that states that the fee for a company listing as a result of an amalgamation is 25% of the basic initial fee.

The Exchange's long-standing interpretation of the term ''amalgamation'' is the consolidation of two or more NYSE listed companies into a new company. It is proposed to codify this definition into Paragraph 902.02 of the Manual. While language to that effect currently exists in the Manual, a ''housekeeping'' change is required to clarify that (1) an amalgamation is defined as the consolidation of two or more NYSE listed companies into a new listed company, and (2) a reduced initial fee will be applied to listings resulting from an amalgamation.

A further housekeeping change is required as the result of a recent change to Paragraph 902.02 of the Manual, currently in effect as a pilot, which implemented a reduced listing fee for mergers between an NYSE listed company and a non-NYSE listed company.[3] Specifically, current language is being deleted from the rule that refers to the merger of listed companies into an unlisted company which becomes listed.[4] This language is no longer necessary in light of the recent amendments.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)[5] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 40698; File No. SR–NYSE–98–40.

[4] The Commission notes that when an NYSE listed company merges with another NYSE listed company that becomes unlisted and then lists on the NYSE, the full fee shall apply. Telephone conversation between Daniel Beyda, Associate General Counsel, NYSE; David Sieradzki, Special Counsel, Division of Market Regulation (''Division''), Commission; and Robert Long, Attorney, Division, Commission on January 4, 1999.

[5] 15 U.S.C. 78f(b)(4).

available for inspection and copying in the Commission's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–48 and should be submitted by February 5, 1999.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

V. Commission's Findings and Order Granting Partial Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act.[6] More specifically, the Commission believes that the portion of the proposed rule change dealing with the three-month pilot is consistent with Section 6(b)(4) of the Act,[7] which requires that the rules of an exchange assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using its facilities.[8] The Commission believes that the proposal may ease the financial burdens of merger transactions with NYSE-listed issuers, thus facilitating capital formation and competition among exchanges and other markets.

The Commission finds good cause for approving the three-month pilot prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. This accelerated approval will permit Exchange-listed issuers to take advantage of the Exchange's initial listing fee reduction program on an expedited basis while the Commission undertakes a more exhaustive review of the proposal. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the three-month pilot.[9] The Commission notes, however, that approval of the pilot should not suggest a predisposition regarding the ultimate approval of the proposal on a permanent basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSE–98–48) is approved on an accelerated basis until April 5, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–921 Filed 1–14–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] In approving the three-month pilot, the Commission has considered the pilot's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40888; File No. SR–PCX–98–57]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Amend Equity Floor Procedure Advice 2–C To Remove an Exception Regarding Trade Reporting Responsibilities

January 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] notice is hereby given that on November 6, 1998, the Pacific Exchange, Inc. (''PCX'' 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 PCX. 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

PCX is proposing to change Equity Floor Procedure Advice 2–C. Specifically, the Exchange proposes to delete the second exception to Rule 5.12 in Equity Floor Procedure Advice 2–C. Below is the text of the proposed rule change. Proposed new language is in *italics* and deletions are in [brackets].

* * * * *

EQUITY FLOOR PROCEDURE ADVICES

* * * * *

2–C

¶ 7630 Subject: Reporting of Transactions Executed at the Exchange

Rule *5.12(a)* [I, Section 16(a), of the Rules of the Board of Governors of the Pacific Exchange, Inc.] provides that the seller is responsible for ensuring that a transaction executed at the Exchange is properly recorded. This requirement is subject to *the following* [two] exception[s]: [1.]Pursuant to Rule *5.12(b)*, [I, Section 16(b),] inter-floor ''limit sell orders'' are to be reported from the floor on which the order was placed and executed.

[2. Transactions in local issues in which the specialist acts as the buyer and the seller is located on the opposite trading floor are to be promptly reported to the tape by the specialist. The seller is required to submit a ''goldenrod'' ticket to report the transaction for clearing purposes only.]

The Exchange has found that *this* [these] exception[s] to the general reporting procedures occasionally results in transactions not being reported to the tape. Because it is essential that all trades executed at the Exchange be promptly reported for dissemination to the Exchange community and the public, violations of the trade reporting requirements will be investigated and may result in the imposition of fines or other disciplinary action.

The following schedule will serve as a guideline for penalties to be imposed for violations of this floor procedure advice:

1st Violation: Official Warning
2nd Violation: $250.00
3rd Violation: $500.00

This schedule is based on the number of violations for a particular security, calculated on a monthly basis. This schedule is intended to apply to inadvertent violations of *this* [the] floor procedure advice *that* [which] are not attributable to clerical errors by Exchange staff or other mitigating circumstances. In cases of deliberate violations or other aggravated circumstances, other disciplinary action may be deemed to be appropriate.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX 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. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, PCX Rule 5.12 states that ''The seller shall be responsible for transactions being promptly recorded by the floor reporters.'' This requirement is subject to two exceptions in Equity Floor Procedure Advice 2–C, the second of which holds that, ''transactions in local issues in which the specialist acts as the buyer and the seller is on the opposite trading floor are to be promptly reported to the tape by the specialist. The seller is required to submit a 'goldenrod' ticket to report the transaction for clearing purposes only.''

The PCX proposes to delete the second exception to Rule 5.12 in Equity Floor Procedure Advice 2–C so that the general requirement in Rule 5.12 of seller responsibility shall apply. The Exchange believes that the conditions underlying the original exception have changed and that there is no longer any reason to exempt these types of transactions from the basic requirement. The PCX believes that the deletion of this exception will make the obligation to report transactions consistent with the general requirement that sellers report the trades.

2. Statutory Basis

PCX believes the proposed rule change is consistent with Section 6(b)[2] of the Act, in general, and furthers the objectives of Section 6(b)(5),[3] in particular, because it is designed to perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–98–57 and should be submitted by February 5, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–923 Filed 11–14–99; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities; Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Inquiry to File an SSI Child's Application—0960–0557. The information collected on Form SSA–293 is used by the Social Security Administration (SSA) to document the earliest possible filing date and to determine potential eligibility for SSI child's benefits. The respondents are individuals, such as hospital social workers, who inquire about SSI eligibility for low birth weight babies.

Number of Respondents: 2,100
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Average Burden: 350 hours

2. Request for Workers' Compensation/Public Disability Information—0960–0098. Form SSA–1709 is used by SSA to request and/or to verify information about worker's compensation or public disability benefits given to Social Security disability insurance benefit recipients so that their monthly benefit adjustments are properly made. The respondents are State and local governments and/or businesses that administer workers' compensation or other disability benefits.

Number of Respondents: 140,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Average Burden: 35,000 hours

3. Individuals Who Inquire About SSI Eligibility for Themselves—0960–0140. Form SSA–3462 is completed by SSA personnel, via telephone or personal interview, and it may be used to determine potential eligibility for SSI benefits. The respondents are individuals who inquire about SSI eligibility for themselves or someone else.

Number of Respondents: 2,134,100
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Average Burden: 177,842 hours

4. State Mental Institution Policy Review—0960–0110. The information collected on form SSA–9584 is used by the Social Security Administration to determine whether an institution's policies and practices conform with

SSA's regulations in the use of benefits, and whether the institution is performing other duties and responsibilities required of a representative payee. The information also provides the basis for conducting the actual onsite review and is used in the preparation of the subsequent report of findings and recommendations which is provided to the institution. The respondents are state mental institutions which serve as representative payees for Social Security beneficiaries.

Number of Respondents: 183
Frequency of Response: 1
Average Burden Per Response: 1 hour
Estimated Average Burden: 183 hours

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Application for U.S. Benefits Under the Canada-U.S. International Agreement—0960–0371. The information collected on Form SSA–1294 is used to determine entitlement to benefits. The respondents are individuals who live in Canada and file for U.S. Social Security Benefits.

Number of Respondents: 1,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 250 hours

2. Quarterly Statistical Report on Recipients and Payments Under State-Administered Assistance Programs for Aged, Blind and Disabled (Individuals and Couples) Recipients—0960–0130. The information collected on Form SSA–9741 is used to provide statistical data on recipients and assistance payments under the SSI State-administered State supplementation program. These data collections are needed to complement the information available for the Federally administered programs under SSA, and to more fully explain the impact of the public income support programs on the needy, aged, blind and disabled. The respondents are state agencies who administer supplementary payment programs under SSI.

Number of Respondents: 30

Frequency of Response: 4 times annually

Average Burden Per Response: 1 hour

Estimated Annual Burden: 120 hours

3. Statement of Death by Funeral Director—0960–0142. SSA uses the information collected on Form SSA–721 to verify the death of an individual insured under the Social Security Act and to determine if there is a survivor eligible for a lump-sum death payment. The respondents are funeral directors with knowledge of the death of a person insured for Social Security benefits.

Number of Respondents: 900,000

Frequency of Response: 1

Average Burden Per Response: 3.5 minutes

Estimated Average Burden: 52,500 hours

4. Statement Regarding Marriage—0960–0017. SSA uses the information collected on Form SSA–753 to make determinations regarding entitlement to spouse's benefits when a common-law marriage is alleged. The respondents are third parties who can supply evidence concerning the existence of a common-law marriage.

Number of Respondents: 40,000

Frequency of Response: 1

Average Burden Per Response: 9 minutes

Estimated Average Burden: 6,000 hours

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB), Office of Management and Budget, OIRA Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Date: January 6, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–555 Filed 1–14–99; 8:45 am]

BILLING CODE 4190–29–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (Section 182 is commonly referred to as the ''Special 301'' provisions in the Trade Act.) In addition, the USTR is required to determine which of these countries should be identified as priority foreign countries. Acts, policies or practices which are the basis of a country's identification as a priority foreign country are normally the subject of an investigation under the Section 301 provisions of the Trade Act. Section 182 of the Trade Act contains a special rule for the identification of actions by Canada affecting United States cultural industries.

USTR requests written submissions from the public concerning foreign countries' acts, policies, and practices that are relevant to the decision whether particular trading partners should be identified under Section 182 of the Trade Act.

DATES: Submissions must be received on or before 12:00 noon on Tuesday, February 16, 1999.

ADDRESSES: U.S. Trade Representative, 600 17th Street, NW., Room 100, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Intellectual Property (202) 395–6864; Andrew Bowen, Deputy Director for Intellectual Property (202) 395–6864, or Geralyn S. Ritter, Assistant General Counsel (202) 395–6800, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to Section 182 of the Trade Act, the

USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as priority foreign countries. Acts, policies or practices which are the basis of a country's designation as a priority foreign country are normally the subject of an investigation under the Section 301 provisions of the Trade Act.

USTR may not identify a country as a priority foreign country if it is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

In identifying countries that deny adequate and effective protection of intellectual property rights in 1999, USTR will focus special attention on the progress countries have made toward addressing three issues of particular concern to the United States: proper and timely implementation of the WTO TRIPS Agreement, reducing piracy of optical media (music CDs, Video CDs, CD–ROMs, and DVDs), and acquisition and use of only legal software by government agencies.

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR is obligated to identify any act, policy or practice of Canada which affects cultural industries, is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). Any such act, policy or practice so identified shall be treated the same as an act, policy or practice which was the basis for a country's identification as a priority foreign country under Section 182(a)(2) of the Trade Act (i.e., such acts, policies or practices shall be the subject of a Section 301 investigation under the ''Special 301'' procedures), unless the United States has already taken action pursuant to Article 2106 of the NAFTA.

USTR must make the above-referenced identifications within 30 days after publication of the National Trade Estimate (NTE) report, i.e., no later than April 30, 1999.

Requirements for Comments

Comments should include a description of the problems experienced and the effect of the acts, policies and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in English and provided in twenty copies. A submitter requesting that information contained in a comment be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy. A non-confidential version of the comment must also be provided.

All comments should be sent to Sybia Harrison, Special Assistant to the Section 301 Committee, Room 100A, 600 17th Street, NW, Washington, DC 20508, and must be received no later than 12:00 noon on Tuesday, February 16, 1999.

Public Inspection of Submissions

Within one business day of receipt, non-confidential submissions will be placed in a public file, open for inspection at the USTR Reading Room, in Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC. An appointment to review the file may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday.

Joseph Papovich,

Assitant USTR for Services, Investment and Intellectual Property.

[FR Doc. 99–964 Filed 1–14–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements—Agency Information Collection Activity Under OMB Review.

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 28, 1998 [FR 63, page 46097].

DATES: Comments must be submitted on or before Febraury 16, 1999.

FOR FURTHER INFORMATION CONTACT: Donna Albritton, Office of Program Management, (202) 366–0203, and refer to the OMB Control Number.

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

Title: National Transit Database, 49 U.S.C. Section 5335(a) and (b).

OMB Control Number: 2132–0008.

Type of Request: Extension to a currently approved information collection.

Form(s): 001, 100, 200, and 400.

Affected Public: State and local government, business or other for-profit institutions, non-profit institutions, and small business organizations.

Abstract: 49 U.S.C. Section 5335(a) and (b) require the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information and a uniform system of accounts and records. Federal, state, and local governments, transit agencies/boards, labor unions, manufacturers, researchers, consultants and universities use the National Transit Database for making transit related decisions. State and local governments also use the National Transit Database in allocating funds under 49 U.S.C. Section 5307. National Transit Database information is essential for understanding cost, ridership and other national performance trends, including transit's share of urban travel. It would be difficult to determine the future structure of FTA programs, to set policy, and to make funding and other decisions relating to the efficiency and effectiveness of the Nation's transit operations without the National Transit Database.

Estimated Annual Burden: The estimated annual burden is 238,140 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FTA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 8, 1999.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–995 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending January 8, 1999

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–99–4964.

Date Filed: January 4, 1999.

Parties: Members of the International Air Transport Association.

Subject

PTC31 N/C 0075 dated November 6, 1998 r1–18

PTC31 N/C 0076 dated November 6, 1998 r19–35

PTC31 N/C 0077 dated November 6, 1998 r36–52

PTC31 N/C 0079 dated November 6, 1998 r53–61

PTC31 S/CIRC 0056 dated November 3, 1998 r62–63

Minutes

PTC31 N/C 0082 dated December 18, 1998

Tables

PTC31 N/C Fares 0036 dated November 10, 1998

PTC31 N/C Fares 0038 dated November 27, 1998

PTC31 N/C Fares 0039 dated November 27, 1998

PTC31 S/Circ Fares 0018 dated November 6, 1998

Corrections

PTC31 N/C 0080 dated December 11, 1998

PTC31 N/C 0081 dated December 15, 1998

PTC31 N/C 0083 dated December 22, 1998

Intended effective date: April 1, 1999.

Docket Number: OST–99–4972.

Date Filed: January 6, 1999.

Parties: Members of the International Air Transport Association.

Subject

CTC12 Telex Mail Vote 983

US-Belgium/Germany/Sweden/Switzerland Small Package Service—Reso 501ff

Intended effective date: February 1, 1999.

Docket Number: OST–99–4983.

Date Filed: January 8, 1999.

Parties: Members of the International Air Transport Association.

Subject

PTC23/123 Telex Mail Vote 982

Europe-Japan Surcharge for Reclining Seat

Amendment to Mail Vote

Intended effective date: February 1, 1999.

Docket Number: OST–99–4984.

Date Filed: January 8, 1999.

Parties: Members of the International Air Transport Association.

Subject

PTC12 USA–EUR Fares 0031 dated January 12, 1999

US–UK Add-on Amounts

Intended effective date: April 1, 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–936 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Modesto City-County Airport-Harry Sham Field, Modesto, CA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction.

SUMMARY: The Federal Aviation Administration (FAA), DOT corrects a notice published December 16, 1998 (63 FR 69356). This action is taken to correct the total estimated PFC revenue. Accordingly, the notice published December 16, 1998 (63 FR 69356), is corrected as follows:

On page 69357, in the first column under **SUPPLEMENTARY INFORMATION,** the total estimated PFC revenue should read $233,750.

Issued in Hawthorne, California, on January 7, 1999.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 99–995 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Will Rogers World Airport, Oklahoma City, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Will Rogers World Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Luther E. Trent, Director of Will Rogers World Airport at the following address: Mr. Luther E. Trent, Director of Aviation, City of Oklahoma City, 7100 Terminal Drive, Box 937, Oklahoma City, OK 73159–0937.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region,

Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Will Rogers World Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 28, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 17, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1999.

Proposed charge expiration date: November 1, 2000.

Total estimated PFC revenue: $7,465,206.00.

PFC application number: 99–02–C–00–OKC.

Brief description of proposed projects:

Projects To Impose and Use PFC's

Construct ARFF Facility, Construct Southwest Stormwater Detention Facility, Construct Snow Removal Equipment Facility, Aircraft Pavement Rejuvenation, and Emergency Access Road Reconstruction.

Proposed class or classes of air carriers to be exempted from collecting PFC's: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Will Rogers World Airport.

Issued in Forth Worth, Texas, on December 28, 1998.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 99–994 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Public Meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Thursday, February 4, 1999. The following designations are made for each item: (A) is an ''action'' item; (I) is an ''information item;'' and (D) is a ''discussion'' item. The agenda includes the following: (1) Call to Order and Introductions (I); (2) Statements of Antitrust Compliance and Conflict of Interest (A); (3) Approval of Last Meeting's Minutes (A); (4) Workshop Report-Out; (5) Federal Report (I); (6) President's Report (I); (7) Committee Reports (I): APTS Committee, ARTS Committee, ATIS Committee, ATMS Committee, AVCSS Committee, and BEC Committee; (8) ATMS RTAG Advice (A); (9) Fair Information Principles for ITS/CVO and ITS CVO Interoperability Guiding Principles (A); (10) Selection of Nominees for ITS '99 Awards Banquet (A): Outstanding Technical Committee; Achievement in Research, Development and Innovation; and Achievement in Regional and Corridor Programs; (11) Coordinating Council Governing Document Changes; (12) Automotive Manufacturers Interface Consortium Update; (13) Telematics Suppliers Consortium Update; (15) Adjournment.

DATES: The Coordinating Council of ITS AMERICA will meet on Thursday, February 4, 1999, from 12:00 p.m.–4:00 p.m. (Eastern Standard time).

ADDRESSES: San Antonio Marriott Rivercenter Hotel, 101 Bowie Street, San Antonio, Texas, 78205. Phone number: (210) 223–1000. Fax number: (210) 223–6239.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW., Suite 800, Washington, D.C. 20024. Persons needing further information or to request to speak at this meeting should contact Marlene Vence-Crampton at ITS AMERICA by telephone at (202) 484–4847, or by Fax at (202) 484–3483.

The DOT contact is Mary Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except for legal holidays. (23 U.S.C. 315; 49 CFR 1.48)

Issued on: January 11, 1999.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 99–997 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–4498; FHWA–95–5]

Comprehensive Truck Size and Weight Study; Availability of Volume III, Scenario Analysis

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: The FHWA is announcing the availability of a draft of Volume III, Scenario Analysis of the report for the Comprehensive Truck Size and Weight (TS&W) Study (October 1998) for review and comment. The document will be mailed to individuals that have previously expressed an interest in the study.

Volume III presents a description of the analytical framework used to evaluate a set of alternative TS&W options selected for review by the DOT. Data and analytical tools have been developed to evaluate critical impact areas: highway agency costs (pavement preservation, bridge protection and geometric requirements), externalities (safety of the system, environmental quality, energy consumption and traffic flow) and economic impact (rail competitiveness and shipper costs).

For each of five scenarios, the impacts, as delineated above, have been assessed and compared to a status quo baseline. These findings are presented in Volume III. The DOT identified three illustrative core scenarios for initial evaluation. In addition, two policy proposals, initiated by external groups, were targeted for analysis. Scenarios were specified using a building block approach which includes configuration, highway network, and geographic options.

DATES: Comments must be received by March 16, 1999 in order to be considered for inclusion in the final draft of the Volume III document.

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 9 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: Ms. Regina McElroy, Office of Policy Development, HPP–10, (202) 366–9216, or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, FHWA, 400 Seventh Street, SW., Washington, D. C. 20590–0001. 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 Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Availability of Copy

A copy of draft Volume III may be obtained by contacting Ms. April McCrory, Office of Policy Development, HPP–10, facsimile: (202) 366–7696. It is also available on the FHWA home page at the following Internet address: *http://www.fhwa.dot.gov/reports/tswstudy*.

Background

The DOT currently has under way a Comprehensive TS&W Study. The study was initiated in 1994 by Secretary of Transportation Rodney E. Slater, who was then the Federal Highway Administrator. The study will provide a policy architecture or a fact-based framework for decision makers as they consider the relative impacts of alternative TS&W policy options. Specific policy recommendations are not included in the study.

Volume III of the study focuses on scenario analysis. Five scenarios were analyzed to assess the potential impact of changes in national TS&W policies. Each scenario was compared to a Base Case. The three illustrative scenarios analyzed are: ''Uniformity,'' ''North American Trade'' and ''Longer Combination Vehicles (LCVs) Nationwide.'' The two policy scenarios analyzed are: H.R. 551, ''The Safe Highways and Infrastructure Preservation Act'' and ''Triples Nationwide.''

Base Case

The Base Case retains all features of current law and provides a baseline against which the other scenarios may be compared. It also includes existing grandfather rights and the freeze imposed by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 (Pub. L. 102–240, 105 Stat. 1914) which restricted the use of LCVs to the types of operations in effect as of June 1, 1991.

Uniformity

Under the Uniformity scenario, current grandfather provisions that now allow some States to retain gross vehicle weight (GVW) and axle weight limits higher than the Federal limits on the Interstate System would be eliminated. This scenario would also extend Federal limits to non-Interstate portions of the National Network (NN) for large trucks, resulting in nationally uniform weight limits on the NN.

North American Trade

The North American Trade scenario is focused on trade among the North American countries. This trade could be facilitated by allowing the operation of six-axle tractor-semitrailer combinations at 97,000 pounds GVW. Under this scenario, a 51,000-pound tridem-axle weight would be allowed. Currently, the weight allowed on a three-axle group is limited by the Federal Bridge Formula. A 51,000-pound tridem-axle weight limit would provide for the legal transportation of 40-foot containers loaded to maximum international weight limits. Because a tridem-axle weight limit of 51,000 pounds would have adverse infrastructure and safety impacts, a 44,000-pound tridem-axle weight limit was also analyzed. Under these limits a six-axle tractor semitrailer combination could operate at 90,000 pounds. In addition, this tridem-axle weight limit could provide a productivity increase for short wheelbase straight trucks.

Longer Combination Vehicles (LCVs)

The LCVs Nationwide scenario explores the impact of lifting the ISTEA freeze on LCVs. The ISTEA included language to prevent the expansion of LCVs into States that did not permit them before June 1, 1991. The Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107) did not amend or remove the freeze. In this scenario, LCVs would be afforded higher GVW limits than other commercial motor vehicles, subject to their number of axles. All other Federal TS&W controls would remain.

H.R. 551

On February 4, 1997, Representative Oberstar introduced H.R. 551, entitled Safe Highways and Infrastructure Preservation Act of 1997. This bill would phase out trailers longer than 53 feet, freeze State grandfather rights, and freeze weight limits on non-Interstate portions of the National Highway System.

Triples Nationwide

The Triples Nationwide scenario was recommended as a result of outreach efforts. This scenario is a subset of the LCVs Nationwide scenario and would permit the operation of triple-trailer combinations across the country. This scenario focuses on a seven-axle triple-trailer combination which would be permitted to operate nationwide at a GVW of 132,000 pounds.

The scenarios, as well as the impact areas, were selected based on comments received through the study's extensive outreach process. Outreach activities have included: (1) a **Federal Register** notice requesting initial public comment under FHWA Docket No. 95–5 (February 2, 1995, 60 FR 6587); (2) public meetings with representatives of large and small carriers, trucking industry associations, safety advocates and representatives from State and local governments (March 13, 1995, 60 FR 13510); (3) regional focus sessions to secure input from major constituencies and experts; (4) special teleconference sessions addressing issues of importance with our State partners; (5) external review of draft documents by Congress, State representatives and other interested parties prior to finalization; and (6) an Impact Methodology Review Conference (April 30, 1998, 63 FR 23822).

The study approach also reflects extensive internal Departmental coordination. Policy oversight and direction for the study were provided by a DOT Policy Oversight Group (POG). The POG is comprised of executives

from throughout the Department including representatives from the Office of the Secretary of Transportation, FHWA, the Federal Railroad Administration, the National Highway Traffic Safety Administration and the Maritime Administration. In addition to POG oversight, a Multimodal Advisory Group (MAG) was established to ensure that major technical decisions shaping the Study would be made on an intermodal basis. The MAG is comprised of staff-level representatives from throughout the DOT.

The DOT anticipates that the final Comprehensive TS&W Study report will be transmitted to Congress in the spring of 1999. It will include four volumes: Volume I—Executive Summary, Volume II—Issues and Background, Volume III—Scenario Analysis, and Volume IV—Guide to Documentation. A draft version of Volume II was distributed for external review in June 1997.

Authority: 23 U.S.C. 315; 49 U.S.C. 301, 302, and 305; 49 CFR 1.48.

Issued on: January 7, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–934 Filed 1–14–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reasons for Delay''

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically very complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
PM—Party to application with modification request.

Issued in Washington, DC, on January 8, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
11699–N	GEO Specialty Chemicals, Bastrop, LA	4	02/26/1999
11761–N	Vulcan Chemicals, Birmingham, AL	4	02/26/1999
11767–N	Ausimont USA, Inc., Thorofare, NJ	4	02/26/1999
11815–N	Union Pacific Railroad Co., et al., Omaha, NE	4	02/26/1999
11817–N	FIBA Technologies, Inc., Westboro, MA	1, 4	02/26/1999
11862–N	The BOC Group, Murray Hill, NJ	4	02/26/1999
11883–N	Brownie Tank Mfg., Co., Minneapolis, MN	4	02/26/1999
11894–N	Quicksilver Fiberglass Manufacturing, Ltd., Strome, Alberta, CN	4	02/26/1999
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	02/26/1999
11934–N	UtiliCorp United, Inc., Omaha, NE	4	02/26/1999
11938–N	Steel Shipping Container Institute, Washington, DC	4	02/26/1999
11947–N	Patts Fabrication & Services, Odessa, TX	4	01/26/1999
11954–N	Republic Environmental Systems (PA), Inc., Hatfield, PA	4	02/26/1999
11983–N	Degussa Corporation, Ridgefield Park, NJ	4	03/31/1999
12001–N	Albemarle Corporation, Baton Rouge, LA	4	03/31/1999
12003–N	Degussa Corporation, Ridgefield Park, NJ	4	03/31/1999
12020–N	Rhone-Poulenc, Inc., Shelton, CT	4	03/31/1999
12029–N	NACO Technologies, Lombard, IL	4	03/31/1999
12032–N	Physical Acoustics Quality Services, Lawrenceville, NJ	4	03/31/1999
12033–N	PPG Industries, Inc., Pittsburgh, PA	4	03/31/1999
12051–N	General American Transportation Corporation, Chicago, IL	4	03/31/1999
12063–N	The Hydrocarbon Flow Specialist, Inc., Morgan City, LA	4	03/31/1999
12064–N	Occident Chemical Corp., Webster, TX	4	03/31/1999
12071–N	Pennwalt India Limited, Worli, Mumbai, IN	4	03/31/1999
12072–N	Consani Engineering (PTY) Limited, Cape Province, RA	4	03/31/1999
12073–N	Patriotic Fireworks, North East, MD	4	03/31/1999
12097–N	Qual-X, Inc., Powell, OH	4	01/29/1999
12098–N	Carleton Technologies, Inc., Orchard Park, NY	4	03/31/1999
12102–N	AETS/CWM, Flanders, NJ	4	03/31/1999
12104–N	Hoechst Celanese, Spartanburg, SC	4	03/31/1999
12105–N	Becton Dickinson Microbiology Systems, Sparks, MD	4	03/31/1999
12106–N	Air Liquide America Corporation, Houston, TX	4	03/31/1999
12120–N	The Sherwin-Williams Co., Cleveland, OH	4	03/31/1999

NEW EXEMPTION APPLICATIONS—Continued

Application No.	Applicant	Reason for delay	Estimated date of completion
12126–N	LaRoche Industries, Inc., Atlanta, GA	4	03/31/1999

MODIFICATIONS TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
4354–M	PPG Industries, Inc., Pittsburgh, PA	1	03/31/1999
7887–M	Kosdon Enterprises, Ventura, CA	4	03/31/1999
8915–M	Advanced Silicon Materials, Inc., Moses Lake, WA	4	03/31/1999
9266–M	ERMEWA, Inc., Houston, TX	4	02/26/1999
9419–M	FIBA Technologies, Inc., Westboro, MA	4	02/26/1999
9421–M	Taylor-Wharton Co., Harrisburg, PA	4	02/26/1999
9706–M	Taylor-Wharton Co., Harrisburg, PA	4	02/26/1999
9819–M	Halliburton Energy Services, Inc., Duncan, OK	4	03/31/1999
10047–M	Taylor-Wharton Co., Harrisburg, PA	4	03/31/1999
10458–M	Marsulex, Inc., Sudbury, Ontario, CN	4	03/31/1999
10996–M	Kosdon Enterprises, Ventura, CA	4	03/31/1999
11050–M	Koppers Industries, Inc., Pittsburgh, PA	4	03/31/1999
11270–M	The Specialty Chemicals Div. of B.F. Goodrich Co., Cleveland, OH	4	03/31/1999
11483–M	Autoliv, Autoflator AB, Vargarda, SW	4	03/31/1999

[FR Doc. 99–932 Filed 1–14–99; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 570X)]

CSX Transportation, Inc.—Abandonment Exemption—in Putnam County, IN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon .35 miles of its line of railroad between milepost LQ–189.65 and milepost LQ–190.00 in Cloverdale, Putnam County, IN. The line traverses United States Postal Service Zip Code 46120.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 14, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 25, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 4, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 20, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by January 15, 2000, and there are no legal or regulatory barriers

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: January 11, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–983 Filed 1–14–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB review; comment request

January 5, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 16, 1999 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0100.

Form Number: None.

Type of Review: Reinstatement.

Title: Customs Regulations Pertaining to Customhouse Brokers.

Description: The collection contained in Part 111 of the Customs Regulations (19 CFR 111) governs the licensing and conduct of Customs brokers in the performance of Customs business on behalf of others.

Respondents: Business or other for-profit, Individuals or households. Not-for-profit institutions, Federal Government.

Estimated Number of Respondents/ Recordkeepers: 3,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,500 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–925 Filed 1–14–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 8, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 16, 1999, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0633.

Notice Number: IRS Notices 437, 437A, 438 and 466.

Type of Review: Revision.

Title: Notice of Intention to Disclose.

Description: Notice is required by 26 USC 6110(f). A reply is necessary if the recipient disagrees with the Service's proposed deletions. The Service uses the reply to consider the propriety of making additional deletions to the public inspection version of written determinations or related background file documents.

Respondents: Individuals or households, Business and other for-profit, Not-for-profit institutions, Farms, Local or Tribal Government.

Estimated Number of Respondents: 5,250.

Estimated Burden Hours Per Respondent: 30 minutes.

Estimated Total Reporting Burden: 2,625 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–926 Filed 1–14–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on February 2, 1999, of the following debt management advisory committee:

The Bond Market Association Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. Following the working session, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9:00 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. § 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. § 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports

would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of the Assistant Secretary for Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b.

Dated: January 11, 1999.

Gary Gensler,

Assistant Secretary (Financial Markets).

[FR Doc. 99–970 Filed 1–14–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Environmental Information and Supplemental Information on Water Quality Considerations.

DATES: Written comments should be received on or before March 16, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to David Brokaw, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Title: Environmental Information and Supplemental Information on Water Quality Considerations.

OMB Number: 1512–0100.

Form Number: ATF F 1740.1 and ATF F 1740.2.

Abstract: The environmental forms are necessary in order to comply with the provisions of the National Environmental Policy Act, 42 U.S.C. 4332 (ATF F 1740.1) and the Clean Water Act, 33 U.S.C. 1341(a) (ATF F 1740.2). Information regarding solid and liquid waste, air pollution, noise, etc. as collected on ATF 1740.1 is evaluated to determine if a formal environmental impact statement or an environmental permit is necessary for a proposed operation. The environmental type information is collected from manufacturers, namely distilled spirits plants, wineries, breweries, and tobacco products factories. ATF F 1740.2 is also submitted by manufacturers but only those who discharge a solid or liquid effluent into navigable waters. Applicants are required to describe any biological, chemical, thermal, or other characteristic of the discharge as well as any methods or equipment used to monitor the condition of the discharge. Based upon this data, ATF makes a determination as to whether a certification or waiver by the applicable State water quality agency is required. Should a manufacturer be required to submit both forms (ATF F 1740.1 and 1740.2) he may incorporate by reference any redundant information especially regarding solid and waste. The record retention period for this information collection is 15 years after discontinuance of business for distilled spirits plants having production facilities. All others, 4 years after discontinuance of business.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 8,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 4,400.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 10, 1999.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 99–944 Filed 1–14–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.

DATES: Written comments should be received on or before March 16, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Rosa M. Jeter, Market Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8123.

SUPPLEMENTARY INFORMATION:

Title: Application for Enrollment to Practice Before the Bureau of Alcohol, Tobacco and Firearms.

OMB Number: 1512–0418.

Form Number: ATF F 5000.12.

Abstract: The Application to practice before the Bureau of Alcohol, Tobacco and Firearms is necessary so that the Bureau may evaluate the qualification of applicants in order to assure only competent, reputable persons are authorized to represent claimants. There is no recordkeeping requirement for the respondent.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 8.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 10, 1999.

William T. Earle,

Asistant Director (Management), CFO.

[FR Doc. 99–945 Filed 1–14–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Consent of Surety.

DATES: Written comments should be received on or before March 16, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Mary A. Wood, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8185.

SUPPLEMENTARY INFORMATION:

Title: Consent of Surety.

OMB Number: 1512–0078.

Form Number: ATF F 1533 (5000.18).

Abstract: A consent of surety is executed by both the bonding company and a proprietor and acts as a binding legal agreement between the two parties to extend the terms of a bond. The bond is necessary to cover specific liabilities on the revenue produced from untaxpaid commodities. The consent of surety is filed with ATF and a copy is retained by ATF as long as it remains current and in force.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 2,000.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 10, 1999.

William T. Earle,

Assistant Director (Management), CFO.

[FR Doc. 99–946 Filed 1–14–99; 8:45. am]

BILLING CODE 4810–31–P

Corrections

Federal Register

Vol. 64, No. 10

Friday, January 15, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP-99-1-000]

Mountain Petroleum Corporation; Notice of Petition for Dispute Resolution

Correction

In notice document 99–344, beginning on page 1190, in the issue of Friday, January 8, 1999, make the following correction:

On page 1190, in the second column, the docket line is corrected to read as set forth above.

[FR Doc. 99–344 Filed 99; 8:45 am]

BILLING CODE 1505–01–D, 1999 / Corrections

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–140–000]

Viking Gas Transmission Company; Notice of Application

Correction

In notice document 99–339, beginning on page 1192, in the issue of Friday, January 8, 1999, the heading is corrected by adding the docket number, as set forth above.

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 649 and 697

American Lobster Fishery; Exclusive Economic Zone From Maine Through North Carolina; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649 and 697

[Docket No. 990105002–9002–01; I.D. 110598D]

RIN 0648–AH41

American Lobster Fishery; Exclusive Economic Zone From Maine Through North Carolina

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

ACTION: Proposed rule.

SUMMARY: NMFS solicits comments on proposed regulations to implement proposed management measures for the American lobster fishery in the Exclusive Economic Zone (EEZ) from Maine through North Carolina. The intent of these regulations is, in combination with state regulations governing the American lobster fishery in non-Federal waters, to end overfishing and rebuild stocks of American lobsters. NMFS proposes to withdraw approval of the Fishery Management Plan for the American Lobster Fishery (FMP), to remove existing regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) which implement that FMP, and to implement the existing management measures and a variety of new measures including designation of lobster management areas, restrictions on fishing gear and tagging requirements for lobster traps, under regulations issued under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). The proposed regulations are compatible with the recommendations we received from the Atlantic States Marine Fisheries Commission (Commission).

DATES: Comments on the proposed rule must be received by February 10, 1999.

ADDRESSES: Comments on the rule should be sent to, and copies of supporting documents, including a Draft Environmental Impact Statement/Regulatory Impact Review (DEIS/RIR) and an Initial Regulatory Flexibility Analysis (IRFA), are available from the Director, State, Federal and Constituent Programs Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Comments regarding burden estimates should be sent to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Robert Ross, NMFS, Northeast Region, 978–281–9234.

SUPPLEMENTARY INFORMATION: NMFS proposes to withdraw approval of the American Lobster FMP, to remove existing regulations issued under the Magnuson-Stevens Act, and to issue new regulations under the ACFCMA to implement existing management measures and a variety of new measures. American lobster, *Homarus americanus*, from the Magnuson-Stevens Act to the ACFCMA by withdrawing approval of the lobster fishery management plan (48 FR 36368) at the same time as this rule would be implemented. Since the majority of the lobster fishery (approximately 80 percent) takes place in state waters, regulatory action in the EEZ (3 nautical miles [nm] to 200 nm from shore) alone, even a total moratorium on harvesting lobsters, would not end overfishing of the resource without implementation of effective management measures by state jurisdictions. Adequate state lobster conservation measures, therefore, are essential to end overfishing of American lobster. It is clear to the agency that it is not possible to meet the requirements of the Magnuson-Stevens Act without full cooperation of states with lobster fisheries, and thus a cooperative management partnership under the ACFCMA is preferable. Accordingly, NMFS is proposing Federal lobster conservation measures in the EEZ under the authority of the ACFCMA. Section 804(b) of ACFCMA authorizes the Federal government to implement regulations to govern fishing in the EEZ that are compatible with the effective implementation of a Commission American Lobster Interstate Fishery Management Plan (ISFMP) and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act. Given limitations on NMFS to manage the lobster resource throughout its range, NMFS has determined that this approach is the best option to encourage and expedite partnership in state and Federal jurisdictional waters in a time frame that minimizes the potential for a stock collapse of the resource and has the best potential for complying with national standards of the Magnuson-Stevens Act.

The Commission approved Amendment 3 to the American Lobster ISFMP in December 1997. The goal of Amendment 3 is to have a healthy lobster resource and a management regime that provides for a sustained harvest of lobsters, maintains appropriate opportunities for participation, and provides for cooperative development of conservation measures by all stakeholders. Amendment 3 includes recommended measures in Federal waters as well as in state waters (specific measures are described later in this proposed rule), and it establishes a procedure whereby fishermen, including some who fish exclusively in Federal waters, may make recommendations for further management measures to meet predefined targets designed to end overfishing and to facilitate stock rebuilding.

The Magnuson-Stevens Act requires NMFS to develop plans to end overfishing and rebuild overfished stocks. NMFS has identified lobster as overfished throughout its range. This finding has been confirmed by an independent review panel convened by NMFS and the Commission. Therefore, NMFS is required by the Magnuson-Stevens Act to develop a plan by June 1999 to end overfishing of lobsters and rebuild the lobster fishery within 10 years. The regulations in this proposed rule, together with a process for working with the Commission to devise future measures, constitute a proposed plan to meet this mandate.

On March 27, 1996, NMFS first proposed to withdraw approval of the FMP and issue complementary regulations under the ACFCMA (61 FR 13478). NMFS proposed that the final withdrawal of the approval of the FMP, and the removing of its implementing regulations, would occur upon completion of an effective state management program developed by the Commission.

Amendment 3 is a comprehensive plan for managing the lobster fishery in state and Federal waters. While it does not specify all future steps that are needed to rebuild egg production and end the overfished status of lobster, it does provide a framework for the development of those measures to rebuild the resource.

Status of Stock

The most recent NMFS assessment of the lobster stock concluded that it is overfished throughout its range (22nd Northeast Regional Stock Assessment Workshop Document 96–13, dated September, 1996). There has been a dramatic increase in fishing effort since the 1970s. Fishing is now removing a large proportion of lobsters before they have had a chance to spawn even once, and the average size of lobsters landed

continues to drop. Although landings have been high in recent years, there is a risk that the stocks could collapse. Such a risk could be reduced if fishing mortality were reduced.

The major signs of risk to the resource and to the fishery are:

1. The landings of lobsters, throughout the range, are becoming increasingly dependent on animals that have just reached minimum size. Most females at this size have not yet had a chance to spawn.

2. Extremely high exploitation of lobsters (exceeding 70 percent of the legal sized animals) continues to lessen the benefits of the current conservation measures, since relatively few live long enough to be protected.

3. Although abundance is currently high in some areas, this is due, in part, to favorable environmental conditions that are enhancing survival. If these conditions deteriorate, the resource cannot be expected to support the high level of harvesting that currently exists.

4. The overall size composition of the resource is becoming dominated by small, not fully mature animals. As a result, the population is predominantly relying on first time spawners to create successive generations. In addition to the low egg production of first time spawners, there is evidence that the eggs they produce are less viable, and the survival of the larvae produced is lower than those produced by larger spawners.

The lobster stock is considered to be overfished because the number of eggs produced each year is less than 10 percent of the number that would have been produced if the stock were not fished. The goal of the stock rebuilding program is not to increase the number of harvestable lobsters—that portion of the population is currently at an all-time high. Rather, the goal is to increase egg production. The more eggs produced, the greater the margin of safety for the population if environmental conditions become unfavorable for the survival of juvenile lobsters to marketable size and the greater the likelihood of rebuilding. In other words, increasing egg production will reduce the risk that a stock will collapse and increase the chances of rebuilding the resource. The Commission has developed a schedule to rebuild egg production that calls for increases in the level of egg production each year until 2005.

The Fishery

The sale of lobsters in 1997 was valued at $268 million—27 percent of the region's entire revenue from commercial fishing. The lobster fishery takes place from North Carolina to Maine. It is primarily a cold water fishery, however. Over half of all lobsters from the northeast are landed in Maine. Approximately 20 percent are landed in Massachusetts. Rhode Island, Long Island Sound and George's Bank are other areas with significant lobster fisheries. Most lobsters (over 80 percent) are taken in state waters, which extend from the coast to three miles from shore. The offshore fishery, particularly that using trap gear, has developed only in the past ten to fifteen years.

Lobster fishing has increased dramatically since the 1970s. Effort is now at an all-time high. For example, in Maine, it has been reported that the number of traps per boat has doubled in the last 30 years. Each trap now remains in the water about 30 percent longer than in 1970 before being hauled.

This is a year-round fishery in the United States. Traps are set even in summer and fall, when the lobsters are molting. Harvesters depend heavily on lobsters within one molt of the legal size (3¼ inches or 8.26 cm carapace length). In recent years, 85 percent or more of landings have been composed of animals in this size range.

The fishery also takes place in Canadian waters, but the Canadian fishery is closed during the molting season. There are limits on the numbers of traps that can be set, on the total allowable catch, and on the number of lobster licenses issued.

Virtually all lobsters (approximately 97 percent) are taken in lobster traps. Small numbers of lobsters are also taken in trawls, gillnets, and by divers.

Lobster Conservation Measures Already in Place

Most current management measures and prohibitions for Federal waters are promulgated under the authority of the Magnuson-Stevens Act and are codified at 50 CFR part 649. These include:

1. A moratorium on new entrants into the fishery through December 31, 1999,

2. A prohibition on the possession of lobsters bearing eggs or from which eggs have been removed (''scrubbed'') by any means,

3. A prohibition on the possession of lobster meat and detached tails, claws or other parts of lobster,

4. A prohibition on the possession of V-notched lobsters (female lobsters that have carried eggs and are marked with a V-shaped cut in the tail),

5. A requirement to install a biodegradable ''ghost'' panel for traps (to eventually allow lobsters to exit from a lost trap),

6. A minimum carapace size of 3¼ inches (8.26 cm),

7. A requirement to install escape vents on traps of at least 5¾ inches by 1⅞ inches (14.6 cm by 4.8 cm) to allow undersized lobsters to exit,

8. A prohibition on the possession at any time of more than six lobsters per person when aboard a head, charter, or dive vessel,

9. A requirement that gear be marked in order to identify the permit holder;

10. A prohibition on the interstate or international trade of live whole lobsters smaller than the Federal minimum size, and

11. A landing limit of 100 lobsters (or parts thereof) per day, up to a maximum of 500 lobsters per trip of five or more days for fishermen using non-trap methods (this limit is imposed by regulations issued under the authority of the ACFCMA and are codified at 50 CFR 697.7).

NMFS proposes to continue all of these measures, as well as new measures described herein, but to implement them by regulations issued under authority of the ACFCMA instead of the Magnuson-Stevens Act. Accordingly, the lobster regulations currently codified at 50 CFR part 649 would be removed and replaced with regulations to be codified at under 50 CFR part 697.

Management measures in state waters vary by state. At a minimum, states must comply with the requirements of the Commission, but additional management measures have been taken by a number of states, including limiting entry into the fishery and further restrictions on fishing effort. The current Commission lobster management measures require that state jurisdictions:

1. Set a minimum carapace size of 3¼ inches (8.26 cm);

2. Prohibit the possession of lobsters bearing eggs and lobsters from which eggs have been removed;

3. Prohibit fishermen from possessing of lobster meat, tails or other parts;

4. Require that traps have escape vents;

5. Require that traps have biodegradable ''ghost'' panels; and

6. Prohibit spearing lobsters.

NMFS published a DEIS/RIR on March 17, 1998, (63 FR 14922) that presented several alternative lobster management measures for both the trap and the non-trap sector of the fishery, in order to meet the mandate of the Magnuson-Stevens Act. The DEIS/RIR recognized the problem associated with meeting the Sustainable Fisheries Act (SFA) requirements, given that approximately 80 percent of the American lobster fishery occurs in state waters and is subject primarily to state, not Federal, management measures. Thirteen public hearings were held in

nine states from Maine to North Carolina to discuss these alternatives and any other ideas about lobster management. Public comments were received from March 20 to May 19, 1998. Overall public comment on these alternatives indicated strong support for the plan embodied by the Commission's Amendment 3 and little support for other measures upon which NMFS sought comments.

The DEIS/RIR included three alternatives specific to the non-trap (mobile gear) fishery. The non-trap fishery alternatives included: taking no action; implementing a possession limit of 100 lobsters per day and a maximum of 500 lobsters per trip; or, implementing a possession limit of 500 lobsters per trip, regardless of trip length. The analysis concluded that a landing limit of 100/day and 500/trip would cap landings from the non-trap sector at current levels and ensure no future expansion of the non-trap sector.

Measures Proposed by Commission

The states, through adoption of Amendment 3 to the Commission's American Lobster ISFMP, recognized the need to end overfishing and rebuild stocks of American lobster. New requirements in state waters, approved in December 1997, include a prohibition in all waters on the possession of ''V-notched'' lobsters throughout the species range and a limit to landings by non-trap fishermen of 100 lobsters per day, up to a maximum of 500 lobsters per trip of 5 or more days. In addition, the following measures would be applicable to all states and areas along the Atlantic coast.

1. All commercial fishermen would have to have a permit to land or possess lobster.

2. All lobster traps would have to contain at least one escape vent with a minimum size of 5¾ inches by 1 15/16 inches (14.6 cm by 4.9 cm).

3. Traps could not exceed 22,950 cubic inches (376,082 cubic cm), except offshore, where the maximum trap size would be 30,100 cubic inches (493,249 cubic cm).

The Commission Plan will identify additional measures, with the opportunity for consideration of alternatives having equal or greater conservation benefits, to achieve the resource rebuilding objectives of the American Lobster ISFMP. The Commission has also identified specific management measures for some regions. This area management approach is being developed with industry participation on seven individual lobster conservation management teams (LCMT) established by the Commission. Except for Area 6 (Long Island Sound), each of these areas include some Federal waters. For the coordinates of the Commission lobster management areas, see § 697.31 of the proposed regulations. The Commission area-specific management measures currently include:

Area 1, Inshore Gulf of Maine

(1) A 1000 limit on the number of traps a vessel may set in 1999, and a 800 trap limit per vessel in 2000.

(2) A prohibition on the possession of lobsters with a carapace length greater than 5 inches (12.7 cm).

Area 2, Inshore Southern New England

A plan to cap and then reduce the maximum number of traps per vessel was submitted by the Area 2 LCMT. It is currently under review by the Commission.

Area 3, Offshore Waters (Entirely in Federal Waters)

The Commission recommends that NMFS implement a limit of 2000 traps per vessel beginning January 1, 1999. A plan prepared by the Area 3 LCMT is currently under review by the Commission.

Areas 4, 5 and 6, Long Island and South

The need for trap reductions or other measures to rebuild the stock will be investigated. Plans submitted by Area 4 and Area 6 LCMTs are currently under review by the Commission. A plan is expected to be submitted by the Area 5 LCMT in the near future.

Outer Cape Cod Lobster Management Area

The same trap limits required in Area 1 will apply, but there will be no maximum size limitation.

The Commission also recommended several measures not directly related to the trap fishery. For example, it recommended a prohibition on spearing lobsters by making it illegal to possess any lobster that has a shell that has been pierced by a spear. The Commission also recommended that NMFS continue the moratorium on issuing new permits to fish for lobster in Federal waters and a mandatory reporting requirement. The current moratorium will expire on December 31, 1999.

The NMFS Proposed Plan

NMFS proposes to retain all current Federal measures for the management of the lobster fishery, but to implement those measures by regulations issued under the authority of the ACFCMA instead of by the currently regulations issued under the authority of the Magnuson-Stevens Act. In addition, NMFS proposes the following new measures designed to implement the Commission's American Lobster ISFMP. Note that some measures would apply to all Federal permit holders while others would apply only in specific areas.

1. Moratorium on new entrants into the fishery. There are currently approximately 3000 vessels with permits to fish for lobster in Federal waters. Under a current moratorium scheduled to end on December 31, 1999, no new permits are being issued. Persons may only enter the fishery by purchasing an existing vessel that already has a limited access permit and then contacting NMFS to request a change of ownership. NMFS proposes to continue the moratorium. This would avoid any increase in the number of vessels permitted to take lobsters in Federal waters. Such an increase could undermine the conservation benefits of other measures.

2. Designation of Lobster Management Areas. In order to be compatible with the Amendment 3, NMFS proposes to adopt the boundaries of the lobster management areas specified by the Commission. The coordinates marking the perimeter of the areas can be found in the proposed regulations in § 697.31.

3. Lobster management area designation for vessels fishing with traps. NMFS proposes that owners of vessels that elect to use traps must inform NMFS each year of the lobster management areas they will set trap gear in. A permit holder may set traps in more than one area, but if any near-shore areas are elected (Areas 1, 2, 4, 5, 6 or the Outer Cape Lobster Management Area), then Area 3, the offshore area, may not also be elected in that year or any subsequent year. If a permit holder elects to fish in Area 3, that person may not fish in any other designated lobster management area except where Areas 2 and 3 overlap. The most restrictive of either Area 2 or Area 3 regulations (including trap limits) will apply when fishing in this overlap area. Once a vessel owner has designated one or more of the nearshore management areas, the vessel would be required to fish only in those areas. Permit holders electing to fish in EEZ Offshore Management Area 3 will have one opportunity to change to one or more of the EEZ nearshore management areas, but thereafter would be prohibited from re-electing Offshore Management Area 3. The reason for these provisions is that different trap limits and maximum trap sizes are proposed for Area 3 than for the near-shore areas. A person receiving the

higher number of traps and trap tags would not be allowed to set gear in the near-shore areas. At the same time, there may be a conservation benefit to keeping effort in Area 3 from expanding. This provision would slow the movement of fishermen from the near-shore areas into Area 3, and may prevent an expansion of effort on the offshore brood stock.

4. Near-shore area trap limits. In order to cap effort in the near-shore areas, NMFS proposes that Federal permit holders electing to fish in Areas 1, 2, the Area 2/3 overlap, 4, 5, 6 and in the Outer Cape Lobster Management Area be limited to a maximum of 1000 traps in 1999 and to 800 traps in the year 2000. Further trap limits may be required in the future if the egg-rebuilding schedule is not met by these limits or other conservation equivalent measures. The purpose of this measure is to ensure that the conservation benefits that might be achieved by other measures are not lost by further expansion of fishing effort in the near-shore areas. Although many of the states are adopting similar limits, measures in this rule would only apply to Federal permit holders. Alternative and/or additional management measures other than those pertaining to trap limits will be considered in Federal waters in accordance with Commission recommendations and procedures identified in § 697.36 of this proposed rule.

5. Near-shore area maximum trap size. One way to increase fishing effort without increasing the number of traps in the water is to increase the size of those traps. The larger the trap, the more lobsters it can hold. To minimize this, NMFS proposes to prohibit Federal permit holders from setting traps in the near-shore areas that are larger than 22,950 cubic inches (376,082 cubic centimeters).

6. Area 1 maximum carapace size. For Federal permit holders fishing in Area 1, NMFS proposes that there be a maximum harvestable size, in order to have compatible measures with the Commission's ISFMP recommendation. The Commission did not approve a maximum carapace size for any other management area. Lobsters with a carapace size greater than 5 inches (12.7 cm) could not be retained in Area 1, or by fishermen who elect Area 1 as one of their designated management areas. The carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace (the unsegmented shell of the lobster). The purpose of this measure is to protect large females that are capable of producing many eggs. This measure will provide increasing conservation benefits as the number of larger individuals increases in the American lobster population.

7. Off-shore area trap limits and maximum trap size. NMFS proposes that Federal permit holders electing to fish in Area 3 be limited to no more than 2000 traps in 1999 and no more than 1800 traps in 2000. Further reductions of this trap limit may be required in the future if the egg-rebuilding schedule is not met by these limits. In addition, NMFS proposes that traps set in Area 3 be no larger than 30,100 cubic inches (493,249 cc). A higher maximum number of traps and larger maximum trap size are proposed for Area 3 to offset the additional costs and time required for fishing offshore. Alternative and/or additional management measures will be considered in Federal waters in accordance with Commission recommendations and procedures identified in § 697.36 of this proposed rule.

8. Trap tag allocations. As a way to enforce the trap limits proposed for each lobster management area, NMFS proposes to require that each trap set by a Federal permit holder have a trap tag attached to the trap bridge or central cross-member. Lobster fishermen would be required to purchase tags from NMFS or a NMFS-authorized distributor. Each permit holder would be allowed to purchase tags, up to the maximum number of traps allowed in his or her area, plus ten percent to cover in-season loss. Those persons fishing in near-shore areas would be allowed to purchase up to 1100 tags in 1999 and 880 tags in 2000. Those persons fishing in Area 3 would be allowed to purchase up to 2200 tags in 1999 and 1980 tags in 2000. The cost per tag is expected to be approximately $0.14. Tags will only be valid for one year and must be replaced each year. Tags may not be sold, transferred or given away. The requirement to affix a tag to each trap would be in lieu of the current requirement that gear be marked with a vessel's official number, Federal permit or tag number, or other specified form of identification.

9. State/Federal Coordination. NMFS may consider alternative tagging programs with cooperating states through appropriate formal agreements.

10. Non-trap harvest restrictions. NMFS proposes similar regulations pertaining to non-trap landing limits as currently exist. Under the proposed rule, it would be unlawful for a vessel that takes lobster by a method other than traps to possess, retain on board, or land, in excess of 100 lobsters, for each lobster day-at-sea, or part of a lobster day-at-sea, up to a maximum of 500 lobsters for any one trip, unless otherwise restricted.

11. Modifications to the plan. This is not a static plan. NMFS will specify additional fishery measures as necessary to meet the egg rebuilding schedule established by the Commission. Some of the measures that might be considered are (1) continued reductions in fishing effort (e.g., number of traps fished) and (2) increases in the minimum harvestable size. NMFS will consult with the Commission in the identification of measures.

ACFCMA requires that Federal regulations be consistent with the national standards of the Magnuson-Stevens Act. National Standard 1 requires NMFS to develop conservation and management measures to prevent overfishing while achieving, on a continuing basis, the optimum yield for each fishery. The degree to which the current management strategy under the Commission plan will achieve ISFMP objectives and ensure maximum sustainable yield on a stock by stock basis will be further assessed by state and NMFS fishery experts through scientific peer review, currently scheduled for early 1999. If NMFS believes that measures to meet the egg-rebuilding schedule which forms the basis of the Commission plan are not sufficient to end overfishing and rebuild stocks of American lobster, it will seek public comment on additional or substitute measures to achieve that.

In addition, section 304(c) of the SFA requires the establishment of a stock rebuilding plan for all overfished stocks. On September 30, 1997, NMFS issued its list of overfished fisheries, which includes the American lobster fishery. NMFS, in consultation with the Commission, will afford special attention to a refined evaluation of the relative contributions of egg production, stock biomass, and population size composition toward meeting stock rebuilding objectives. The ISFMP's rebuilding schedule calls for a threefold increase in lobster egg production in the Gulf of Maine from 1999–2005. The ISFMP also calls for a sixfold increase in egg production on Georges Bank and South and a fourfold to fivefold increase in the southern Cape Cod-Long Island Sound region over the same time period. The rebuilding schedules correspond to a substantial decrease in fishing mortality rate and an increase in yield per recruit. If achieved, the higher levels of egg production should improve the outlook for stock rebuilding, resulting in

positive conservation and economic benefits.

National Standard 2 requires that management measures be based upon the best scientific information available. The information base for these management measures incorporate the most current peer-reviewed information available on the stock status of the American lobster. This information confirms the overfished status of the resource and supports a reduction of fishing effort to minimize the potential for a stock collapse.

National Standard 3 requires, as practicable, that an individual stock be managed as a unit throughout its range, and that interrelated stocks be managed as a unit or in close coordination. Three stock areas for American lobster have been defined: (1) The Gulf of Maine; (2) the Southern Cape Cod to Long Island Sound; and (3) the Georges Bank and south to Cape Hatteras. The three stocks would be managed, throughout the range of the population from Maine to North Carolina, through an area management approach in coordination with state jurisdictional management through the Commission's American Lobster ISFMP.

National Standard 4 requires that conservation and management measures not discriminate between residents of different states. The proposed regulations for the EEZ were developed in consultation with the Commission and the lobster industry and take into account the social and economic distinction between the nearshore and offshore EEZ fisheries. The regulations strive to maintain historical participation levels in the U.S. American lobster fishery.

National Standard 5 requires that, where practicable, conservation and management measures promote efficiency in the utilization of fishery resources. The excess of fishing gear is the primary reason for the overfished condition of the American lobster resource. The increase in the number of lobster traps in recent years has likely reduced the net income of most lobster fishermen. The capping and reduction of fishing effort provides a means to reduce excessive levels of fishing gear and to improve economic efficiency. Continued reductions in fishing effort, however, will likely reduce gross revenues by more than 5 percent, or require significant changes in business operations for a substantial number of individual entities for at least some portion of the stock rebuilding period. The primary intent of the trap reduction schedule is to afford the necessary level of resource protection to prevent overfishing, and promote rebuilding, of the American lobster population.

National Standard 6 requires that conservation and management measures take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The proposed regulations take into account the variations in fisheries, fishery resources, and catches between the nearshore and offshore EEZ fisheries through the differential trap limits for the trap gear sector and through a possession limit designed to maintain historical participation by the non-trap fishery. The proposed higher trap limit for Federal permit holders in the offshore EEZ fishery is based upon the historical character and economics of that industry sector. Additionally, adaptive management measures enable future consideration of state/Federal collaboration efforts, in consultation with the lobster industry, to accommodate specific industry needs on an area by area basis.

National Standard 7 requires that, where practicable, conservation and management measures minimize costs and avoid unnecessary duplication. The implementation of a lobster trap tag program and a gear requirement to increase the minimum escape vent size in lobster traps, for example, will increase industry costs. These measures and their associated cost would assist in ending overfishing and uncontrolled increases in numbers of traps used by vessel operators. Additional requirements relating to mandatory reporting for Federal permit holders would be addressed by NMFS and state fishery management agencies during the development of the Commission's Atlantic Coastal Cooperative Statistics Program in a manner to avoid unnecessary duplication between state and Federal reporting requirements.

National Standard 8 requires that, consistent with fishery conservation requirements, conservation and management measures take into account the importance of fishery resources to fishing communities. There would likely be some initial negative effects on fishing communities. However, the rebuilding of stocks would benefit fishing communities throughout the Atlantic coast historical range for American lobster. Sustained participation of communities and consideration of economic impacts would be facilitated by industry participation through the ISFMP's area management provisions. Data currently available cannot fully describe levels of fishing effort in the EEZ. However, the provisions associated with the management action would allow, in collaboration with the Commission and state fishery agencies, consideration of alternative conservation-equivalent management measures on an area by area basis to meet industry needs and help alleviate any adverse impact management measures might otherwise have on fishing communities.

National Standard 9 requires that, to the extent practicable, conservation and management measures minimize bycatch. Bycatch has not been identified as a significant issue in the ISFMP for American lobster. The proposed action would have no anticipated adverse impacts on bycatch in the EEZ lobster fishery.

National Standard 10 requires that, to the extent practicable, conservation and management measures promote the safety of human life at sea. Reduction in number of lobster traps used by fishermen may result in more frequent tending (reduced soak time) of lobster gear by individual fishermen, but the specific effects of the potential regulations on fishing activities are unknown.

Classification

This proposed rule is published under the authority of the ACFCMA. Paragraphs (A) and (B) of section 804(b)(1) of the ACFCMA authorize the Secretary of Commerce (Secretary) to issue regulations in the EEZ that are compatible with the effective implementation of a coastal fishery management plan and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act. This authority has been delegated to the Assistant Administrator for Fisheries, NOAA (AA). The AA has preliminarily determined that these actions are consistent with the national standards of the Magnuson-Stevens Act. The AA, before making the final determinations, will take into account the data, views, and comments received during the comment period.

NMFS prepared a DEIS/RIR for this action; a notice of availability was published on March 27, 1998 (63 FR 14922). The DEIS analyzed six different alternatives for the lobster trap fishery. The trap fishery alternatives included: taking no action; implementing measures in Federal waters recommended by the Commission; implementing additional nearshore/offshore trap limits with a buffer zone; implementing a four-tier nearshore/offshore trap limit; implementing nearshore fixed trap limits in combination with offshore limits based on historical participation; and prohibiting lobster fishing in Federal waters. The analysis concluded that

Federal action in the EEZ alone is not likely to stop overfishing, rebuild lobster egg production, or meet Federal management requirements to do so. Only cooperative state and Federal action would rebuild the lobster stocks.

The DEIS/RIR also analyzed three alternatives for the non-trap (mobile gear) fishery. The non-trap fishery alternatives included: taking no action; implementing a possession limit of 100 lobsters per day or a maximum of 500 lobsters per trip; and implementing a possession limit of 500 lobsters per trip, regardless of trip length. The analysis concluded that a landing limit of 100/day and 500/trip would cap landings from the non-trap sector at current levels and ensure no future expansion of the non-trap sector.

NMFS prepared an IRFA, supplemented by the preamble to this proposed rule, that describes the impact this proposed rule, if adopted, would have on small entities. Virtually all participants in the lobster fishery are considered to be small entities. Consequently, management measures in the proposed rule affect small entities only, and all analyses of such effects are necessarily analyses of effects on small entities. Since management alternatives differ between the non-trap (mobile gear) and trap (fixed gear) groups, the analysis was performed separately for each gear group.

The proposed action for the trap sector would initially cap and then reduce fishing effort (gear in the water), in addition to other management measures. These measures would apply to all the small entities in the trap sector. NMFS's analysis indicates that these measures could result in a reduction of gross annual revenues of at least 5 percent, or an increase in compliance costs of at least 5 percent, for at least 20 percent of the affected small entities. In addition, it is possible that these measures will cause at least 2% of the affected small entities to cease operations. Therefore, the potential action is determined to have a significant economic impact on a substantial number of small Federally permitted lobster trap vessels. The ISFMP, however, through its area management approach, identifies and addresses socio-economic impacts among the industry sectors on an area by area basis. In the ISFMP, the management unit for American lobster (state and Federal waters from Maine to North Carolina) was subdivided into seven areas, and Lobster Conservation Management Teams (LCMT's) were established for each of these areas. These LCMT's, comprised of lobster industry members, make recommendations for management measures to meet predefined targets designed to end overfishing. Industry recommended LCMT measures, implemented on an area by area basis after review and approval by the Commission, will mitigate adverse economic impacts to area participants by allowing for variable regulations by area, depending on the fishing practices and unique fishery characteristics for each management area. This approach, with industry participation, strives to alleviate adverse economic impacts to the extent possible.

NMFS found no significant impact on small entities for the non-trap sector, primarily because the majority of these vessels do not rely on lobster as their principal source of income. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Alternatives considered and their impacts have been discussed here.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains collection-of-information requirements subject to the PRA. The following are proposed new collection-of-information requirements that have been submitted to OMB for approval.

The estimated time per individual response is shown.

1. Revision of existing gear (trap) marking requirements (1 minute);
2. Lobster management area designation, request for trap tags, and preparing payment for trap tags (5 minutes);
3. Reporting lost trap tags and requesting replacement trap tags (3 minutes);
4. Requests for additional trap tags (2 minutes); and
5. Extend observer coverage to include the American lobster fishery (2 minutes).

The following collection-of-information requirements are being restated and have already been approved by OMB control number 0648–0202 with the response times per application as shown: vessel permit applications (30 minutes for a new application, 15 minutes for renewal applications), confirmations of permit history (30 minutes); operator permit applications (1 hour); and dealer permit applications (5 minutes).

The following collection-of-information requirement is being restated and has already been approved by OMB under control number 0648–0350: vessel identification requirements, estimated at 45 minutes per vessel.

The following collection-of-information requirement is referred to and has already been approved by OMB under control number 0648–0309: experimental fishing exemption, estimated at one hour per vessel.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

A formal section 7 consultation under the Endangered Species Act was initiated for this rule in a biological opinion by NMFS. After reviewing the best available information on the status of endangered and threatened species under NMFS jurisdiction, the environmental baseline for the action area, the effects of the action, and the cumulative effects, it is NMFS'' Biological Opinion that the continued operation of the Federal lobster fishery, with modifications to reduce impacts of entanglement through the Atlantic Large Whale Take Reduction Plan, is not likely to jeopardize the continued existence of the northern right whale, humpback whale, fin whale, blue whale, sperm whale, sei whale, leatherback sea turtle, and loggerhead sea turtle. In addition, the proposed changes are not likely to destroy or adversely modify right whale critical habitat.

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

Although this proposed rule does not modify existing regulations found at 50 CFR part 697 pertaining to weakfish and striped bass, the entirety of part 697, as proposed, is repeated here.

List of Subjects in 50 CFR Parts 649 and 697

Fisheries, Fishing.

Dated: January 8, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, under the authority of 16 U.S.C. 1801 *et seq.*, 50 CFR part 649 is proposed to be removed and 50 CFR part 697 is proposed to be revised to read as follows:

PART 649—[REMOVED]

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

Subpart A—General Provisions

Sec.
697.1 Purpose and scope.
697.2 Definitions.
697.3 Relation to other Federal and state laws.
697.4 Vessel permits.
697.5 Operator permits.
697.6 Dealer permits.
697.7 Prohibitions.
697.8 Vessel identification.
697.9 Facilitation of enforcement.
697.10 Penalties.
697.11 Civil procedures.
697.12 At-sea sea sampler/observer coverage.

Subpart B—Management Measures

697.20 Harvesting and landing requirements.
697.21 Gear identification and marking, escape vent, maximum trap size, trap tagging and ghost panel requirements.
697.22 Experimental fishing exemption.
697.23 Restricted gear areas.

Subpart C—Egg Production Rebuilding Schedule and Adaptive Management Adjustments to Management Measures

697.30 Purpose and scope.
697.31 Egg production rebuilding schedule lobster management areas.
697.32 Management area designations.
697.33 Trap allocations.
697.34 Trap tag allocations.
697.35 Non-trap trap harvest restrictions.
697.36 Adjustment to management measures.

Authority: 16 U.S.C. 1851 note; 16 U.S.C. 5101 *et seq.*

Subpart A—General Provisions

§ 697.1 Purpose and scope.

The regulations in this part are issued under the authority of section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

§ 697.2 Definitions.

(a) In addition to the definitions in the Magnuson-Stevens Act and in §§ 600.10 and 648.2 of this chapter, for the purposes of this part, the following terms have the following meanings:

American lobster or lobster means *Homarus americanus*.

Approved TED means any approved TED as defined at § 217.12 of this title.

Atlantic striped bass means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

Berried female means a female American lobster bearing eggs attached to the abdominal appendages.

Block Island Southeast Light means the aid to navigation light located at Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2′ N. lat., 71°33.1′ W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

BRD means bycatch reduction device.

Carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

Certified BRDs mean any BRD, as defined in part 622, Appendix D of this title: Specifications for Certified BRDs.

Charter or head boat means any vessel carrying fishing persons or parties for a per capita fee or for a charter fee.

Commercial purposes means for the purpose of selling or bartering all or part of the fish harvested.

Commission means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by Congress in Pub. L. 77–539 and Pub. L. 81–721.

Continuous transit means that a vessel does not have fishing gear in the water and remains continuously underway.

CPH means Confirmation of Permit History.

Crab trawl means any trawl net that is rigged for fishing and has a mesh size of 3.0 inches (7.62 cm), as measured between the centers of opposite knots when pulled taut.

Cull American lobster means a whole American lobster that is missing one or both claws.

De minimis state means any state where the landings are so low that the Commission's Fisheries Management Board has exempted that state from some of its regulatory responsibilities under an Interstate Fishery Management Plan.

Dive vessel means any vessel carrying divers for a per capita fee or a charter fee.

Egg Production Rebuilding Schedule means the schedule identified in section 2.5 of Amendment 3 to the Commission's ISFMP.

Escape vent means an opening in a lobster trap designed to allow lobster smaller than the legal minimum size to escape from the trap.

Fishing trip or trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Fishing year means, for the American lobster fishery, the time period from May 1 through April 30 of the following year.

Flynet means any trawl net, except shrimp trawl nets containing certified BRDs and approved TEDs, when required under § 227.72(e)(2) of this title, and except trawl nets that comply with the gear restrictions specified at § 648.104 of this chapter for the summer flounder fishery and contain an approved TED, when required under § 227.72 (e)(2) of this title.

Ghost panel means a panel, or other mechanism, designed to allow for the escapement of lobster after a period of time if the trap has been abandoned or lost.

ISFMP means the Commission's Interstate Fishery Management Plan for American Lobster, as amended.

Land means to begin offloading fish, to offload fish, or to enter port with fish.

Lobster Day-at-Sea with respect to the American lobster fishery means each 24 hour period of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess, or land, or fishes for, possesses, or lands American lobster.

Lobster permit means a Federal limited access American lobster permit.

Lobster trap trawl means 2 or more lobster traps, all attached to a single ground line.

Management area means each of the geographical areas identified for management purposes under the ISFMP.

Montauk Light means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3′ N. lat., 71°51.5′ W. long.; is shown from an octagonal, pyramidal tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

Parts thereof means any part of an American lobster. A part of a lobster counts as one lobster.

Point Judith Light means the aid to navigation light located at Point Judith,

RI, and defined as follows: Located at 41°21.7′ N. lat., 71°28.9′ W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

Retain means to fail to return any species specified under § 696.7 of this chapter to the sea immediately after the hook has been removed or after the species has otherwise been released from the capture gear.

Scrubbing is the intentional removal of eggs from a berried female.

Shrimp trawl net means any trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net, as defined in § 622.2 of this chapter, that is rigged for fishing and has a headrope length longer than 16 ft (4.9 m).

Regional Administrator means the Regional Administrator, Northeast Region, NMFS, or a designee.

TED means Turtle Excluder Device, which is a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

Trap means any structure or other device, other than a net, that is placed on the ocean bottom and is designed for or is capable of, catching lobsters.

V-notched American lobster means any female American lobster bearing a V-shaped notch in the flipper next to and to the right of the center flipper as viewed from the rear of the lobster (underside of the lobster down and tail toward the viewer), or any female American lobster that is mutilated in a manner that could hide or obliterate such a mark.

V-shaped notch means a straight-sided triangular cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

Weakfish means members of the stock or population of the species *Cynoscion regalis*, found along the Atlantic Coast from southern Florida to Massachusetts Bay.

Whole American lobster means a lobster with an intact and measurable body (tail and carapace). An American lobster with an intact and measurable body that is missing one or both claws, i.e., a cull lobster, is considered to be a whole American lobster.

§ 697.3 Relation to other Federal and state laws.

(a) The provisions of sections 307 through 311 of the Magnuson-Stevens Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson-Stevens Act.

(b) The relation of this part to other laws is set forth in § 600.705 of this chapter.

(c) The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to: weakfish fishing and American lobster fishing. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

§ 697.4 Vessel permits.

(a) *Limited access American lobster permit.* Any vessel of the United States that fishes for, possesses, or lands American lobster in or harvested from the EEZ must have been issued and carry on board a valid Federal limited access lobster permit. This requirement does not apply to: head, charter and dive boats that possess six or fewer American lobsters per person aboard the vessel if said lobsters are not intended for, nor used, in trade, barter or sale; recreational vessels; and vessels that fish exclusively in state waters for American lobster.

(1) *Eligibility.* To be eligible to apply for a Federal limited access lobster permit a vessel must have been issued either a Federal limited access lobster for the preceding year, be replacing a vessel that was issued a Federal limited access lobster permit for the preceding year or be replacing a vessel issued a confirmation of permit history.

(2) *Application/renewal restrictions.* All limited access permits established under this section must be issued on an annual basis by the last day of the fishing year for which the permit is required, unless a CPH has been issued as specified in paragraph (a)(6) of this section. Application for such permits must be received no later than 30 days before the last day of the fishing year. Failure to renew a limited access permit in any fishing year bars the renewal of the permit in subsequent years.

(3) *Qualification restriction.* Unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a Federal limited access lobster permit based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit, based on one vessel's fishing and permit history, the Regional Administrator will determine who is eligible for the permit or a CPH under paragraph (a)(4) of this section.

(4) *Change in ownership.* The fishing and permit history of a vessel is presumed to transfer with the vessel whenever it is bought, sold or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for the purposes of replacing the vessel.

(5) *Consolidation restriction.* Federal limited access American lobster permits, and any rights or privileges associated thereto, may not be combined or consolidated.

(6) *Confirmation of permit history.* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, must apply for and receive a CPH if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified in this section. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH also preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit as described in paragraph (o) of this section. A CPH issued under this part will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has been applied for or been issued previously a limited access permit is a final agency action subject to judicial review under 5 U.S.C. 704. Information requirements for the CPH application are the same as those for a limited access permit. Any request for information about the vessel on the CPH application form means the qualifying vessel that has been sunk, destroyed, or

transferred. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (c) of this section.

(7) *Restriction on permit splitting.* A Federal limited access lobster permit will not be issued to a vessel or its replacement, or remain valid, if the vessels's permit or fishing history has been used to qualify another vessel for another Federal fishery.

(8) *Management area designation restrictions.* A vessel may not change management area designation during the fishing year, except as provided in § 697.32. Prior to the start of the fishing year, vessel owners will have one opportunity to request a change in management area designation by submitting an application to the Regional Administrator prior to the start of the fishing year and within 45 days of issuance of the previous designation. After that date, the vessel must remain in the management area elected for the remainder of the fishing year.

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(c) *Vessel permit application.* Applicants for a Federal limited access American lobster permit under this section must submit a completed application on an appropriate form obtained from the Regional Administrator. The application must be signed by the owner of the vessel, or the owner's authorized representative, and be submitted to the Regional Administrator at least 30 days before the date on which the applicant desires to have the permit made effective. Eligibility requirements are specified in paragraph (a)(1) of this section. The Regional Administrator will notify the applicant of any deficiency in the application pursuant to this section.

(d) *Information requirements.* In addition to applicable information required to be provided by paragraph (c) of this section, an application for a Federal limited access American lobster permit must contain at least the following information, and any other information required by the Regional Administrator: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of the vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; number of crew; permit category; lobster fishing area declaration; if the owner is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having more than a 25 percent interest; and name and signature of the owner or the owner's authorized representative.

(e) *Fees.* The Regional Administrator may charge a fee to recover the administrative expense of issuing a Federal limited access American lobster permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The NOAA Finance Handbook can be obtained from the Regional Administrator, NMFS (see Table 1 to § 600.502 of this chapter). The fee may not exceed such costs and will be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue a Federal American lobster vessel permit within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a completed application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received; or

(ii) The application was not received by the Regional Administrator by the deadlines set forth in paragraph (a)(2) of this section; or

(iii) The applicant has failed to meet any other application requirements stated in this part.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Administrator shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration.* A Federal limited access American lobster permit will expire upon the renewal date specified in the permit.

(h) *Duration.* A permit will continue in effect unless it is revoked, suspended, or modified under 15 CFR part 904, or until it otherwise expires, or ownership of the vessel changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as specified in paragraph (k) of this section.

(i) *Reissuance.* Reissued permits, for an otherwise valid permit, may be issued by the Regional Administrator when requested in writing by the owner or authorized representative, stating the need for reissuance, the name of the vessel, and the Federal Fisheries Permit number assigned. An application for a reissued permit will not be considered a new application. An appropriate fee may be charged.

(j) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the vessel and owner/or person to which it is issued.

(k) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written notice of the change must be submitted to the Regional Administrator. If the written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* The Assistant Administrator may suspend, revoke, or modify, any permit issued or sought under this section. Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(o) *Abandonment or voluntary relinquishment of limited access American lobster permits.* If a vessel's Federal limited access American lobster permit or CPH is voluntarily relinquished to the Regional Administrator, or abandoned through failure to renew or otherwise, no Federal limited access American lobster permit or CPH may be reissued or renewed based on the qualifying vessel's history.

§ 697.5 Operator permits.

(a) *General.* Any operator of a vessel issued a Federal limited access American lobster permit under § 697.4(a), or any operator of a vessel of the United States that fishes for, possesses, or lands American lobsters, harvested in or from the EEZ must have been issued and carry on board a valid operator's permit issued under this section. This requirement does not apply to: head, charter and dive boats that possess six or fewer American lobsters per person aboard the vessel if said lobsters are not intended for nor used in trade, barter or sale; recreational vessels; and vessels that fish exclusively in state waters for American lobster.

(b) *Operator application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Administrator will notify the applicant of any deficiency in the application, pursuant to this section.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree, as a condition of this permit, that the operator and vessel's fishing, catch, crew size, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 697.4(a). The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree, as a condition of this permit, that if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be on board any fishing vessel issued a Federal Fisheries Permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in off loading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement.

(d) *Information requirements.* An applicant must provide at least all the following information and any other information required by the Regional Administrator: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two recent (no more than one year old) color passport-size photographs.

(e) *Fees.* See § 697.4(e).

(f) *Issuance.* See § 697.4(f).

(g) *Expiration.* See § 697.4(g).

(h) *Duration.* A permit is valid until it is revoked, suspended, or modified under subpart D of 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Administrator as specified in paragraph (k) of this section.

(i) *Reissuance.* Reissued permits, for otherwise valid permits, may be issued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the Federal operator permit number assigned. An applicant for a reissued permit must also provide two recent (no more than one year old) color passport-size photos of the applicant. An application for a reissued permit will not be considered a new application. An appropriate fee may be charged.

(j) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(k) *Change in application information.* Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(l) *Alteration.* See § 697.4(l).

(m) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* Vessel operators with suspended or revoked permits may not be on board a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. The Assistant Administrator may suspend, revoke, or modify, any permit issued or sought under this section. Procedures governing enforcement related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(o) *Vessel owner responsibility.* Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

§ 697.6 Dealer permits.

(a) All American lobster dealers must have been issued, and have in their possession, a valid permit issued under this section.

(b) *Dealer application.* See § 697.5(b).

(c) *Information requirements.* Applications must contain at least the following information and any other information required by the Regional Administrator: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares, must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one partner, names of all partners having more than a 25 percent interest; and name and signature of all partner or partners authorized must be included with the application.

(d) *Fees.* See § 697.4(e).

(e) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Administrator will issue a permit at any time during the fishing year to an applicant, unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* See § 697.4(g).

(g) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as required by paragraph (j) of this section.

(h) *Reissuance.* Reissued permits, for otherwise valid permits, may be issued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the Federal dealer permit number assigned. An application for a reissued permit will not be considered a new application. An appropriate fee may be charged.

(i) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person, or other business entity, to which it is issued.

(j) *Change in application information.* See § 697.5(k).

(k) *Alteration.* See § 697.4(l).

(l) *Display.* See § 697.5(m).

(m) *Federal versus state requirements.* If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit must comply with the more restrictive requirement.

(n) *Sanctions.* See § 697.4(n).

§ 697.7 Prohibitions.

(a) *Atlantic Coast weakfish fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for, harvest, or possess any weakfish less than 12 inches (30.5 cm) in total length (measured as a straight line along the bottom of the fish from the tip of the lower jaw with the mouth closed to the end of the lower tip of the tail) from the EEZ.

(2) Retain any weakfish less than 12 inches (30.5 cm) in total length taken in or from the EEZ.

(3) Fish for weakfish in the EEZ with a minimum mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(4) To possess more than 150 lb (67 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for finfish trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(5) To fish using a flynet in the EEZ off North Carolina in the area bounded as follows:

(i) On the north by a straight line connecting points 35°10.8′ N. lat., 75°29.2′ W. long. (3 nm off Cape Hatteras) and 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras).

(ii) The east by a straight line connecting points 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras) and 33°21.1′ N. lat., 77°57.5′ W. long., (about 30 nm off Cape Fear on the extension of the North Carolina/South Carolina state line into the EEZ).

(iii) On the south by a straight line connecting points 33°21.1′ N. lat., 77°57.5′ W. long., and 33°48.8′ N. lat., 78°29.7′ W. long. (3 nm off Little River Inlet on the North Carolina/South Carolina state line).

(iv) On the west by state waters.

(6) To possess any weakfish in the closed area of the EEZ, as described in paragraph (a)(5) of this section, when fishing with shrimp trawls or crab trawls.

(7) To land weakfish for commercial purposes caught in the EEZ in any state other than Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

(b) *Atlantic striped bass fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except in the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Retain any Atlantic striped bass taken in or from the EEZ.

(c) *American lobster.* In addition to the prohibitions specified in § 600.725 of this chapter, the following prohibitions apply. It is unlawful for any person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 to do any of the following:

(1) Retain on board, land, or possess at or after landing, American lobsters that fail to meet the minimum carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(2) Retain on board, land, or possess any American lobster or parts thereof in violation of the mutilation standards specified in § 697.20(c).

(3) Retain on board, land, or possess any berried female American lobster specified in § 697.20(d).

(4) Remove eggs from any berried female American lobster, land, or possess any such lobster from which eggs have been removed. No person may land or possess any lobster that has come in contact with any substance capable of removing lobster eggs.

(5) Retain on board, land, or possess any V-notched female American lobster throughout the range of the stock.

(6) Spear any American lobster, or land or possess any American lobster which has been speared.

(7) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any gear not identified, marked, vented, tagged, paneled, and of a volume larger than specified in accordance with the requirements in § 697.21, unless such gear has been rendered unfishable.

(8) Fail to affix and maintain permanent markings, as required by § 697.8.

(9) Fish for, land, or possess American lobsters, unless the operator of the vessel has been issued an operator's permit under § 697.5, and the permit is on board the vessel and is valid.

(10) Fail to report to the Regional Administrator within 15 days any change in the information contained in the permit application as required under § 697.4(k) or § 697.5(k).

(11) Make any false statement in connection with an application under § 697.4 or § 697.5.

(12) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any American lobsters, unless the dealer has a valid Federal Dealer's Permit issued under § 697.6.

(d) *Presumptions.* Any person possessing, or landing American lobsters at or prior to the time when those American lobsters are landed, or are received or possessed by a dealer, is subject to all of the prohibitions specified in paragraph (c) of this section, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters; or are from a head, charter, or dive vessel that possesses or possessed six or fewer American lobsters per person aboard the vessel and the lobsters are not intended for sale, trade, or barter; or are from a recreational vessel.

(1) American lobsters that are possessed, or landed at or prior to the time when the American lobsters are received by a dealer, or American lobsters that are possessed by a dealer,

are presumed to be harvested from the EEZ or by a vessel with a Federal limited access American lobster permit. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel without a Federal limited access American lobster permit and fishing exclusively for American lobsters in state waters will be sufficient to rebut the presumption.

(2) The possession of egg-bearing female American lobsters, V-notched female American lobsters, or American lobsters that are smaller than the minimum size set forth in § 697.20(b), will be *prima facie* evidence that such American lobsters were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

(e) *American lobster.* In addition to the prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraph (c) of this section, the following prohibitions apply. It is unlawful for any person to do any of the following:

(1) Retain on board, land, or possess American lobsters unless:

(i) The American lobsters were harvested by a vessel that has been issued and carries on board a valid Federal limited access American lobster permit under § 697.4(a); or

(ii) The American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or

(iii) The American lobsters were harvested by a head, charter, or dive vessel that possesses six or fewer American lobsters per person on board the vessel and the lobsters are not intended to be, or are not, traded, bartered, or sold; or

(iv) The American lobsters were harvested by a recreational fishing vessel.

(2) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any American lobsters from a vessel, unless the vessel has been issued a valid Federal limited access American lobster permit under § 697.4, or the American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters;

(3) To be, or act as, an operator of a vessel fishing for or possessing American lobsters in or from the EEZ, or issued a Federal limited access American lobster permit under § 697.4(a), without having been issued and possessing a valid operator's permit under § 697.5.

(4) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, American lobsters taken from or harvested by a fishing vessel issued a Federal limited access American lobster permit, unless in possession of a valid dealer's permit issued under § 697.6.

(5) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a valid Federal limited access American lobster permit under § 697.4, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters.

(6) Assault, resist, oppose, impede, harass, intimidate, or interfere with either a NMFS-approved observer aboard a vessel, or an authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part.

(7) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobster.

(8) Violate any provision of this part, the ACFCMA, the Magnuson-Stevens Act, or any regulation, permit, or notification issued under the ACFCMA, the Magnuson-Stevens Act, or these regulations.

(9) Retain on board, land, or possess any American lobsters harvested in or from the EEZ in violation of § 697.20.

(10) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster in violation of § 697.20.

(11) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), (d)(2), and (e)(2) on a fishing vessel with mobile gear during the time periods specified in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1), except as provided in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1).

(12) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) on a fishing vessel with lobster trap gear on board during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(13) Deploy or fail to remove lobster trap gear in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

§ 697.8 Vessel identification.

(a) *Vessel name and official number.* Each fishing vessel subject to this part and over 25 ft (7.6 m) in registered length must:

(1) Have affixed permanently its name on the port and starboard sides of the bow and, if possible, on its stern.

(2) Have its official number displayed on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the USCG documentation number or the vessel's state registration number for vessels not required to be documented under title 46 U.S.C.

(b) *Numerals.* Except as provided in paragraph (d) of this section, the official number must be displayed in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in registered length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in registered length. The registered length of a vessel, for purposes of this section, is that registered length set forth in USCG or state records.

(c) *Duties of owner.* The owner of each vessel subject to this part shall ensure that—

(1) The vessel's name and official number are kept clearly legible and in good repair.

(2) No part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(d) *Non-permanent marking.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The non-permanent markings must be displayed in conformity with the above requirements.

§ 697.9 Facilitation of enforcement.

See § 648.15 of this chapter.

§ 697.10 Penalties.

See § 600.735 of this chapter.

§ 697.11 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Act and the ACFCMA, and to the regulations of this part.

§ 697.12 At-sea sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a Federal limited access American lobster permit to carry a NMFS-approved sea sampler/observer. If requested by the Regional Administrator to carry an observer or sea sampler, a vessel may not engage in any fishing operations in the respective fishery unless an observer or sea sampler is on board, or unless the requirement is waived.

(b) If requested by the Regional Administrator to carry an observer or sea sampler, it is the responsibility of the vessel owner to arrange for and facilitate observer or sea sampler placement. Owners of vessels selected for sea sampler/observer coverage must notify the appropriate Regional or Science and Research Administrator, as specified by the Regional Administrator, before commencing any fishing trip that may result in the harvest of resources of the respective fishery. Notification procedures will be specified in election letters to vessel owners.

(c) The Regional Administrator may waive the requirement to carry a sea sampler or observer if the facilities on a vessel for housing the observer or sea sampler, or for carrying out observer or sea sampler functions, are so inadequate or unsafe that the health or safety of the observer or sea sampler, or the safe operation of the vessel, would be jeopardized.

(d) An owner or operator of a vessel on which a NMFS-approved sea sampler/observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the sea sampler/observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the sea sampler's/observer's duties.

(3) Provide true vessel locations, by latitude and longitude or loran coordinates, as requested by the observer/sea sampler, and allow the sea sampler/observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Notify the sea sampler/observer in a timely fashion of when fishing operations are to begin and end.

(5) Allow for the embarking and debarking of the sea sampler/observer, as specified by the Regional Administrator, ensuring that transfers of observers/sea samplers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the sea samplers/observers involved.

(6) Allow the sea sampler/observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(7) Allow the sea sampler/observer to inspect and copy any of the vessel's log, communications log, and records associated with the catch and distribution of fish for that trip.

(e) The owner or operator of a vessel issued a Federal limited access American lobster permit, if requested by the sea sampler/observer also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, or other specimens taken by the vessel.

(f) NMFS may accept observer coverage funded by outside sources if:

(1) All coverage conducted by such observers is determined by NMFS to be in compliance with NMFS' observer guidelines and procedures.

(2) The owner or operator of the vessel complies with all other provisions of this part.

(3) The observer is approved by the Regional Administrator.

Subpart B—Management Measures

§ 697.20 Harvesting and landing requirements.

(a) *Condition*. By being issued a Federal limited access American lobster permit, the vessel owner is subject to all measures in this subpart, regardless of where American lobsters were harvested.

(b) *Carapace length*. (1) The minimum carapace length for all American lobsters harvested in or from the EEZ is 3¼ inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit, is 3¼ inches (8.26 cm).

(3) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 1, as defined in § 697.31 (a)(1), is 5 inches (12.7 cm). Any vessel fishing in or permitted to fish in the EEZ Nearshore Management Area 1 must comply with the 5 inch (12.7 cm) maximum carapace length requirement regardless of where the lobsters are harvested.

(4) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (b) in this section.

(c) *Mutilation*. (1) Prior to offloading from the vessel no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ, or have in possession on board any American lobster part other than whole lobsters.

(2) Prior to offloading from the vessel no owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove meat or any body appendage from any American lobster, or have in possession on board any American lobster part other than whole lobsters.

(d) *Berried females*. (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit must be returned to the sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female as specified in paragraph (d) of this section.

(e) *Scrubbing*. (1) No person may intentionally remove extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may intentionally remove extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing*. (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any American lobster which has been speared.

§ 697.21 Gear identification and marking, escape vent, maximum trap size, trap tagging, and ghost panel requirements.

(a) *Identification*. All lobster gear deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit, and not permanently attached to the vessel, must be marked with a trap tag (as specified in § 697.34) marked with the Federal permit number assigned by the Regional Administrator.

(b) *Gear configuration*. In the EEZ, lobster trap trawls are to be configured as follows:

(1) Lobster trap trawls of three or fewer traps must be configured with a single buoy.

(2) Lobster trap trawls consisting of more than three traps must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster trap trawl must be configured with a radar reflector only. Standard tetrahedral corner radar reflectors of at least 8 inches (20.32 cm) (both in height and width, and made from metal) must be employed. (A copy of a diagram showing a standard tetrahedral corner radar reflector is available upon request to the Office of the Regional Administrator, see Table 1 to § 600.502 of this title.)

(3) No American lobster trap trawl shall exceed 1.5 nautical miles (2.78 km) in length, as measured from radar reflector to radar reflector.

(c) *Trap tagging*. (1) Each owner of a vessel issued a valid permit under § 697.4 and fishing with traps for American lobster in the EEZ must properly tag all lobster traps as specified under § 697.34. The Regional Administrator may, by agreement with state agencies, recognize trap tags issued by those agencies endorsed for fishing for lobster in the EEZ, provided that such tagging programs accurately identify persons who fish in the EEZ, and that the Regional Administrator can either individually, or in concert with the state agency, act to suspend the permit or license for EEZ fishing for any violation under this part.

(2) Alternate state EEZ tagging programs may be established through a letter of agreement between the Regional Administrator and the director of the state marine fisheries agency concerned. The letter of agreement will specify the information to be collected by the alternate EEZ tagging program and the mode and frequency of provision of that information to the Regional Administrator. The Regional Administrator will, in cooperation with the state director, arrange for notification of the existence and terms of any such agreements to the affected persons. Persons intending to fish in the EEZ should determine whether an alternate EEZ tagging program is in force for their state before applying for a Federal permit under § 697.4.

(d) *Escape vents*. All American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, must be constructed to include one of the following escape vents in the parlor section of the trap. The vent must be located in such a manner that it would not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use.

(1) The specifications for escape vents are as follows:

(i) A rectangular portal with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this rule, any other type of acceptable escape vent that the Regional Administrator finds to be consistent with paragraphs (d)(1)(i) and (ii) of this section.

(e) *Ghost panel*. Lobster traps not constructed entirely of wood must contain a ghost panel.

(1) The specifications for ghost panels are as follows:

(i) The opening to be covered by the ghost panel must be rectangular and must not be less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(ii) The panel must be constructed of, or fastened to the trap with, one of the following untreated materials: wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter.

(iii) The door of the trap may serve as the ghost panel, if fastened with a material specified in paragraph (e)(1)(ii) of this section.

(iv) The ghost panel must be located in the outer parlor(s) of the trap and not in the bottom of the trap.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this rule, any other design, mechanism, material, or other parameter that serves to create an escape portal not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(f) *Maximum trap size*. American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4 shall have a volume not to exceed the following specifications;

(i) *EEZ Nearshore Management Area*—22,950 cubic inches (376,081 cubic centimeters) as measured on the outside portion of the trap, exclusive of the runners, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6), or the Area 2/3 Overlap; or

(ii) *EEZ Offshore Management Area*—30,100 cubic inches (493,249 cubic centimeters) as measured on the outside portion of the trap, exclusive of the runners, if deployed or possessed by a person or vessel permitted to fish in EEZ Offshore Management Area 3.

(g) *Enforcement action*. Unidentified, unmarked, untagged, unvented, or improperly vented American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of part 219 of this title.

§ 697.22 Experimental fishing exemption.

The Regional Administrator may exempt any person or vessel from the requirements of this part for the conduct of experimental fishing beneficial to the management of the American lobster, Atlantic striped bass or weakfish, resource or fishery pursuant to the provisions of § 600.745 of this chapter.

(a) The Regional Administrator may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the objectives of any applicable stock rebuilding program, the provisions of the ACFCMA, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, Atlantic striped bass or weakfish, resource or fishery; or

(2) Create significant enforcement problems.

(b) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of this part,

except those explicitly relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption. Exempted experimental fishing activity shall be authorized pursuant to and consistent with § 600.745 of this chapter.

§ 697.23 Restricted gear areas.

(a) Resolution of lobster gear conflicts with fisheries managed under the Magnuson-Stevens Act shall be done under provisions of § 648.55 of this chapter.

(b) *Restricted Gear Area I.*—(1) *Duration.*—(i) *Mobile Gear.* From October 1 through June 15, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area I, as defined in paragraph (b)(2) of this section, unless transiting. Vessels may transit this area provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From June 16 through September 30, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area I as defined in paragraph (b)(2) of this section.

(2) *Definition of Restricted Gear Area I.* Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to 120	Latitude	Longitude
69	40°07.9′ N.	68°36.0′ W.
70	40°07.2′ N.	68°38.4′ W.
71	40°06.9′ N.	68°46.5′ W.
72	40°08.7′ N.	68°49.6′ W.
73	40°08.1′ N.	68°51.0′ W.
74	40°05.7′ N.	68°52.4′ W.
75	40°03.6′ N.	68°57.2′ W.
76	40°03.65′ N.	69°00.0′ W.
77	40°04.35′ N.	69°00.5′ W.
78	40°05.2′ N.	69°00.5′ W.
79	40°05.3′ N.	69°01.1′ W.
80	40°08.9′ N.	69°01.75′ W.
81	40°11.0′ N.	69°03.8′ W.
82	40°11.6′ N.	69°05.4′ W.
83	40°10.25′ N.	69°04.4′ W.

INSHORE BOUNDARY—Continued

Point to 120	Latitude	Longitude
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.6′ W.
86	40°05.65′ N.	69°03.55′ W.
87	40°04.1′ N.	69°03.9′ W.
88	40°02.65′ N.	69°05.6′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.6′ W.
92	39°57.8′ N.	69°20.35′ W.
93	39°56.65′ N.	69°24.4′ W.
94	39°56.1′ N.	69°26.35′ W.
95	39°56.55′ N.	69°34.1′ W.
96	39°57.85′ N.	69°35.5′ W.
97	40°00.65′ N.	69°36.5′ W.
98	40°00.9′ N.	69°37.3′ W.
99	39°59.15′ N.	69°37.3′ W.
100	39°58.8′ N.	69°38.45′ W.
102	39°56.2′ N.	69°40.2′ W.
103	39°55.75′ N.	69°41.4′ W.
104	39°56.7′ N.	69°53.6′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.4′ N.	69°55.9′ W.
107	39°56.9′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.0′ W.
110	39°59.2′ N.	70°04.9′ W.
111	40°00.7′ N.	70°08.7′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.2′ N.	70°10.9′ W.
116	40°02.45′ N.	70°14.1′ W.
119 to 181	40°02.75′ N.	70°16.1′ W.

OFFSHORE BOUNDARY

Point to 69	Latitude	Longitude
120	40°06.4′ N.	68°35.8′ W.
121	40°05.25′ N.	68°39.3′ W.
122	40°05.4′ N.	68°44.5′ W.
123	40°06.0′ N.	68°46.5′ W.
124	40°07.4′ N.	68°49.6′ W.
125	40°05.55′ N.	68°49.8′ W.
126	40°03.9′ N.	68°51.7′ W.
127	40°02.25′ N.	68°55.4′ W.
128	40°02.6′ N.	69°00.0′ W.
129	40°02.75′ N.	69°00.75′ W.
130	40°04.2′ N.	69°01.75′ W.
131	40°06.15′ N.	69°01.95′ W.
132	40°07.25′ N.	69°02.0′ W.
133	40°08.5′ N.	69°02.25′ W.
134	40°09.2′ N.	69°02.95′ W.
135	40°09.75′ N.	69°03.3′ W.
136	40°09.55′ N.	69°03.85′ W.
137	40°08.4′ N.	69°03.4′ W.
138	40°07.2′ N.	69°03.3′ W.
139	40°06.0′ N.	69°03.1′ W.
140	40°05.4′ N.	69°03.05′ W.
141	40°04.8′ N.	69°03.05′ W.
142	40°03.55′ N.	69°03.55′ W.
143	40°01.9′ N.	69°03.95′ W.
144	40°01.0′ N.	69°04.4′ W.
146	39°59.9′ N.	69°06.25′ W.

OFFSHORE BOUNDARY—Continued

Point to 69	Latitude	Longitude
147	40°00.6′ N.	69°10.05′ W.
148	39°59.25′ N.	69°11.15′ W.
149	39°57.45′ N.	69°16.05′ W.
150	39°56.1′ N.	69°20.1′ W.
151	39°54.6′ N.	69°25.65′ W.
152	39°54.65′ N.	69°26.9′ W.
153	39°54.8′ N.	69°30.95′ W.
154	39°54.35′ N.	69°33.4′ W.
155	39°55.0′ N.	69°34.9′ W.
156	39°56.55′ N.	69°36.0′ W.
157	39°57.95′ N.	69°36.45′ W.
158	39°58.75′ N.	69°36.3′ W.
159	39°58.8′ N.	69°36.95′ W.
160	39°57.95′ N.	69°38.1′ W.
161	39°54.5′ N.	69°38.25′ W.
162	39°53.6′ N.	69°46.5′ W.
163	39°54.7′ N.	69°50.0′ W.
164	39°55.25′ N.	69°51.4′ W.
165	39°55.2′ N.	69°53.1′ W.
166	39°54.85′ N.	69°53.9′ W.
167	39°55.7′ N.	69°54.9′ W.
168	39°56.15′ N.	69°55.35′ W.
169	39°56.05′ N.	69°56.25′ W.
170	39°55.3′ N.	69°57.1′ W.
171	39°54.8′ N.	69°58.6′ W.
172	39°56.05′ N.	70°00.65′ W.
173	39°55.3′ N.	70°02.95′ W.
174	39°56.9′ N.	70°11.3′ W.
175	39°58.9′ N.	70°11.5′ W.
176	39°59.6′ N.	70°11.1′ W.
177	40°01.35′ N.	70°11.2′ W.
178	40°02.6′ N.	70°12.0′ W.
179	40°00.4′ N.	70°12.3′ W.
180	39°59.75′ N.	70°13.05′ W.
181 to 119	39°59.3′ N.	70°14.0′ W.

(c) *Restricted Gear Area II.*—(1) *Duration.*—(i) *Mobile Gear.* From November 27 through June 15, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area II (as defined in paragraph (c)(2) of this section) unless transiting. Vessels may transit this area provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From June 16 through November 26, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area II as defined in paragraph (c)(2) of this section.

(2) *Definition of Restricted Gear Area II.* Restricted Gear Area II is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to 1	Latitude	Longitude
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.

INSHORE BOUNDARY—Continued

Point to 1	Latitude	Longitude
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70 to 48	39°29.75′ N.	72°09.8′ W.

OFFSHORE BOUNDARY

Point to 49	Latitude	Longitude
1	39°59.3′ N.	70°14.0′ W.
2	39°58.85′ N.	70°15.2′ W.
3	39°59.3′ N.	70°18.4′ W.
4	39°58.1′ N.	70°19.4′ W.
5	39°57.0′ N.	70°19.85′ W.
6	39°57.55′ N.	70°21.25′ W.
7	39°57.5′ N.	70°22.8′ W.
8	39°57.1′ N.	70°25.4′ W.
9	39°57.65′ N.	70°27.05′ W.
10	39°58.58′ N.	70°27.7′ W.
11	40°00.65′ N.	70°28.8′ W.
12	40°02.2′ N.	70°29.15′ W.
13	40°01.0′ N.	70°30.2′ W.
14	39°58.58′ N.	70°31.85′ W.
15	39°57.05′ N.	70°34.35′ W.
16	39°56.42′ N.	70°36.8′ W.
21	39°58.15′ N.	70°48.0′ W.
24	39°58.3′ N.	70°51.1′ W.
25	39°58.1′ N.	70°52.25′ W.
26	39°58.05′ N.	70°53.55′ W.
27	39°58.4′ N.	70°59.6′ W.
28	39°59.8′ N.	71°01.05′ W.
29	39°58.2′ N.	71°05.85′ W.
30	39°57.45′ N.	71°12.15′ W.
31	39°57.2′ N.	71°15.0′ W.
32	39°56.3′ N.	71°18.95′ W.
33	39°51.4′ N.	71°36.1′ W.
34	39°51.75′ N.	71°41.5′ W.
35	39°50.05′ N.	71°42.5′ W.
36	39°50.0′ N.	71°45.0′ W.
37	39°48.95′ N.	71°46.05′ W.
38	39°46.6′ N.	71°46.1′ W.
39	39°43.5′ N.	71°49.4′ W.
40	39°41.3′ N.	71°55.0′ W.
41	39°39.0′ N.	71°55.6′ W.
42	39°36.72′ N.	71°58.25′ W.
43	39°35.15′ N.	71°58.55′ W.
44	39°34.5′ N.	72°00.75′ W.
45	39°32.2′ N.	72°02.25′ W.
46	39°32.15′ N.	72°04.1′ W.
47	39°28.5′ N.	72°06.5′ W.
48 to 70	39°29.0′ N.	72°09.25′ W.

(d) *Restricted Gear Area III.*—(1) *Duration.*—(i) *Mobile Gear.* From June 16 through November 26, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area III (as

defined in paragraph (d)(2) of this section) unless transiting. Vessels may transit this area provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From January 1 through April 30, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area III as defined in paragraph (d)(2) of this section.

(2) *Definition of Restricted Gear Area III.* Restricted Gear Area III is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point to 49	Latitude	Longitude
182	40°05.6′ N.	70°17.7′ W.
183	40°06.5′ N.	70°40.05′ W.

INSHORE BOUNDARY—Continued

Point to 49	Latitude	Longitude
184	40°11.05′ N.	70°45.8′ W.
185	40°12.75′ N.	70°55.05′ W.
186	40°10.7′ N.	71°10.25′ W.
187	39°57.9′ N.	71°28.7′ W.
188	39°55.6′ N.	71°41.2′ W.
189	39°55.85′ N.	71°45.0′ W.
190	39°53.75′ N.	71°52.25′ W.
191	39°47.2′ N.	72°01.6′ W.
192 to 70	39°33.65′ N.	72°15.0′ W.

OFFSHORE BOUNDARY

Point to 182	Latitude	Longitude
49	40°02.75′ N.	70°16.1′ W.
50	40°00.7′ N.	70°18.6′ W.
51	39°59.8′ N.	70°21.75′ W.
52	39°59.75′ N.	70°25.5′ W.
53	40°03.85′ N.	70°28.75′ W.
54	40°00.55′ N.	70°32.1′ W.
55	39°59.15′ N.	70°34.45′ W.
56	39°58.9′ N.	70°38.65′ W.
57	40°00.1′ N.	70°45.1′ W.
58	40°00.5′ N.	70°57.6′ W.
59	40°02.0′ N.	71°01.3′ W.
60	39°59.3′ N.	71°18.4′ W.
61	40°00.7′ N.	71°19.8′ W.
62	39°57.5′ N.	71°20.6′ W.
63	39°53.1′ N.	71°36.1′ W.
64	39°52.6′ N.	71°40.35′ W.
65	39°53.1′ N.	71°42.7′ W.
66	39°46.95′ N.	71°49.0′ W.
67	39°41.15′ N.	71°57.1′ W.
68	39°35.45′ N.	72°02.0′ W.
69	39°32.65′ N.	72°06.1′ W.
70 to 192	39°29.75′ N.	72°09.8′ W.

(e) *Restricted Gear Area IV.*—(1) *Duration for Mobile Gear.* From June 16 through September 30, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area IV (as defined in paragraph (e)(2) of this section) unless transiting. Vessels may transit this area provided that all mobile gear is on board the vessel while inside the area.

(2) *Definition of Restricted Gear Area IV.* Restricted Gear Area IV is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

Point	Latitude	Longitude
193	40°13.60′ N.	68°40.60′ W.
194	40°11.60′ N.	68°53.00′ W.

INSHORE BOUNDARY—Continued

Point	Latitude	Longitude
195	40°14.00′ N.	69°04.70′ W.
196	40°14.30′ N.	69°05.80′ W.
197	40°05.50′ N.	69°09.00′ W.
198	39°57.30′ N.	69°25.10′ W.
199	40°00.40′ N.	69°35.20′ W.
200	40°01.70′ N.	69°35.40′ W.
201	40°01.70′ N.	69°37.40′ W.
202	40°00.50′ N.	69°38.80′ W.
203	40°01.30′ N.	69°45.00′ W.
204	40°02.10′ N.	69°45.00′ W.
205	40°07.60′ N.	70°04.50′ W.
206 to 119	40°07.80′ N.	70°09.20′ W.

OFFSHORE BOUNDARY

Point to 193	Latitude	Longitude
69	40°07.90′ N.	68°36.00′ W.

OFFSHORE BOUNDARY—Continued

Point to 193	Latitude	Longitude
70	40°07.20′ N.	68°38.40′ W.
71	40°06.90′ N.	68°46.50′ W.
72	40°08.70′ N.	68°49.60′ W.
73	40°08.10′ N.	68°51.00′ W.
74	40°05.70′ N.	68°52.40′ W.
75	40°03.60′ N.	68°57.20′ W.
76	40°03.65′ N.	69°00.00′ W.
77	40°04.35′ N.	69°00.50′ W.
78	40°05.20′ N.	69°00.50′ W.
79	40°05.30′ N.	69°01.10′ W.
80	40°08.90′ N.	69°01.75′ W.
81	40°11.00′ N.	69°03.80′ W.
82	40°11.60′ N.	69°05.40′ W.
83	40°10.25′ N.	69°04.40′ W.
84	40°09.75′ N.	69°04.15′ W.
85	40°08.45′ N.	69°03.60′ W.
86	40°05.65′ N.	69°03.55′ W.

OFFSHORE BOUNDARY—Continued

Point to 193	Latitude	Longitude
87	40°04.10′ N.	69°03.90′ W.
88	40°02.65′ N.	69°05.60′ W.
89	40°02.00′ N.	69°08.35′ W.
90	40°02.65′ N.	69°11.15′ W.
91	40°00.05′ N.	69°14.60′ W.
92	39°57.80′ N.	69°20.35′ W.
93	39°56.75′ N.	69°24.40′ W.
94	39°56.50′ N.	69°26.35′ W.
95	39°56.80′ N.	69°34.10′ W.
96	39°57.85′ N.	69°35.05′ W.
97	40°00.65′ N.	69°36.50′ W.
98	40°00.90′ N.	69°37.30′ W.
99	39°59.15′ N.	69°37.30′ W.
100	39°58.80′ N.	69°38.45′ W.
102	39°56.20′ N.	69°40.20′ W.
103	39°55.75′ N.	69°41.40′ W.
104	39°56.70′ N.	69°53.60′ W.
105	39°57.55′ N.	69°54.05′ W.
106	39°57.40′ N.	69°55.90′ W.
107	39°56.90′ N.	69°57.45′ W.
108	39°58.25′ N.	70°03.00′ W.
110	39°59.20′ N.	70°04.90′ W.
111	40°00.70′ N.	70°08.7′ W.
112	40°03.75′ N.	70°10.15′ W.
115	40°05.20′ N.	70°10.90′ W.
116	40°02.45′ N.	70°14.1′ W.
119 to 206	40°02.75′ N.	70°16.1′ W.

Subpart C—Egg Production Rebuilding Schedule and Adaptive Management Adjustments

§ 697.30 Purpose and scope.

The purpose of this subpart is to specify the requirements and adaptive area management procedures for implementing the egg production rebuilding schedule for American lobster, intended to eliminate overfishing in all resource areas and rebuild the stock.

§ 697.31 Egg production rebuilding schedule Lobster Management Areas.

(a) *Management areas.* The egg production rebuilding schedule shall be developed based on the status of stock of American lobsters and management considerations for each of the following lobster management areas described and defined in paragraph (a) of this section.

(1) *EEZ Nearshore Management Area 1.* EEZ Nearshore Management Area 1 including state and Federal waters that are near-shore in the Gulf of Maine, as defined by the area bounded by straight lines connecting the following points, in the order stated, and the coastline of Maine, New Hampshire, and Massachusetts to the northernmost point on Cape Cod:

Point	Latitude	Longitude
A	43°58′ N.	67°22′ W.
B	43°41′ N.	68°00′ W.
C	43°12′ N.	69°00′ W.
D	42°49′ N.	69°40′ W.
E	42°15.5′ N.	69°40′ W.
G	42°05.5′ N.	70°14′ W.

(2) *EEZ Nearshore Management Area 2.* EEZ Nearshore Management Area 2 including state and Federal waters that are near-shore in Southern New England, defined as follows:

Point	Latitude	Longitude
H	41°40′ N.	70°00′ W.
I	41°15′ N.	70°00′ W.
J	41°21.5′ N.	69°16′ W.
K	41°10′ N.	69°06.5′ W.
L	40°55′ N.	68°54′ W.
M	40°27.5′ N.	72°14′ W.
N	40°45.5′ N.	71°34′ W.
O	41°07′ N.	71°43′ W.
P	41°06.5′ N.	71°47′ W.
Q	41°18′30″ N.	71°54′30″ W.
R	41°11′30″ N.	71°47′15″ W.

From point ''R'' along the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary and then back to point ''H'' along the Rhode Island and Massachusetts coast.

(3) *Area 2/3 Overlap.* In the southern New England area, there shall be an area of overlap between Area 2 and Area 3, defined as follows:

Point	Latitude	Longitude
K	41°10′ N.	69°06.5′ W.
L	40°55′ N.	68°54′ W.
M	40°27.5′ N.	72°14′ W.
N	40°45.5′ N.	71°34′ W.

(4) *EEZ Offshore Management Area 3.* EEZ Offshore Management Area 3 comprises entirely Federal waters defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
A	43°58′ N.	67°22′ W.
B	43°41′ N.	68°00′ W.
C	43°12.5′ N.	69°00′ W.
D	42°49′ N.	69°40′ W.
E	42°15.5′ N.	69°40′ W.
F	42°10′ N.	69°56′ W.
K	41°10′ N.	69°06.5′ W.
N	40°45.5′ N.	71°34′ W.
M	40°27.5′ N.	72°14′ W.
U	40°12.5′ N.	72°48.5′ W.
V	39°50′ N.	73°01′ W.
X	38°39.5′ N.	73°40′ W.
Y	38°12′ N.	73°55′ W.
Z	37°12′ N.	74°44′ W.
ZA	35°34′ N.	74°51′ W.
ZB	35°14.5′ N.	75°31′ W.
ZC	35°14.5′ N.	71°24′ W.

From point ''ZC'' along the seaward EEZ boundary to point ''A''.

(5) *EEZ Nearshore Management Area 4.* EEZ Nearshore Management Area 4 including state and Federal waters that are near-shore in the northern Mid-Atlantic area, defined by the area bounded by straight lines connecting the following points:

Point	Latitude	Longitude
M	40°27.5′ N.	72°14′ W.
N	40°45.5′ N.	71°34′ W.
O	41°07′ N.	71°43′ W.
P	41°06.5′ N.	71°47′ W.
S	40°58′ N.	72°00′ W.
T	41°00.5′ N.	72°00′ W.
From Point ''T'', along the New York/New Jersey coast to Point ''W''		
W	39°50′ N.	74°09′ W.
V	39°50′ N.	73°01′ W.
U	40°12.5′ N.	72°48.5′ W.

From Point ''U'' back to Point ''M''.

(6) *EEZ Nearshore Management Area 5.* EEZ Nearshore Management Area 5 including state and Federal waters that are near-shore in the southern Mid-Atlantic area, defined by the area bounded by straight lines connecting the following points, in the order stated:

Point	Latitude	Longitude
W	39°50′ N.	74°09′ W.
V	39°50′ N.	73°01′ W.
X	38°39.5′ N.	73°40′ W.
Y	38°12′ N.	73°55′ W.
Z	37°12′ N.	74°44′ W.
ZA	35°34′ N.	74°51′ W.
ZB	35°14.5′ N.	75°31′ W.

From Point ''ZB'' along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point ''W''.

(7) *EEZ Nearshore Management Area 6.* The EEZ Nearshore Management Area 6 includes New York and Connecticut state waters specified as follows:

T	41°00.5′ N.	72°00′ W.
S	40°58′ N.	72°00′ W.

From Point ''S'', boundary follows the 3 mile limit of New York as it curves around Montauk Point to Point ''P''

P	41°06.5′ N.	71°47′ W.
Q	41°18′30″ N.	71°54′30″ W.
R	41°11′30″ N.	71°47′15″ W.

From point ''R'', along the maritime boundary between Connecticut and Rhode Island to the coast; then west along the coast of Connecticut to the western entrance of Long Island Sound; then east along the New York coast of Long Island Sound and back to Point ''T''.

(8) *EEZ Nearshore Outer Cape Lobster Management Area.* EEZ Nearshore

Outer Cape Lobster Management Area including state and Federal waters off Cape Cod, specified as follows:

Point	Latitude	Longitude
F	42°10′ N.	69°56′ W.
G	42°05.5′ N.	70°14′ W.
H	41°40′ N.	70°00′ W.
I	41°15′ N.	70°00′ W.
J	41°21.5′ N.	69°16′ W.

From Point ''J'' along the outer Cape Cod coast to Point ''F''.

(9) NMFS may, consistent with § 697.36, implement management measures necessary for each management area, in order to end overfishing and rebuild stocks of American lobster.

(b) [Reserved]

§ 697.32 Management area designations.

(a) *Management area designations for vessels fishing with traps.* (1) Each owner of a vessel issued a Federal limited access American lobster permit or CPH which fishes with traps capable of catching American lobster must complete a lobster management area designation and trap program application form and declare to NMFS in which management areas described in § 697.31(a) the vessel intends to fish. The Regional Administrator will notify the applicant of any deficiency in the application pursuant to this section. It shall be unlawful to retain on board, land, or possess American lobster until the application is complete and the designation certificate is issued.

(2) A lobster designation certificate will indicate which lobster management area or areas the vessel has elected.

(3) Vessels issued a designation certificate electing to fish in any or all of the lobster EEZ Nearshore Management Areas (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) regardless of whether the vessel has changed ownership after election, are prohibited from:

(i) Fishing for, landing from, or possessing lobster in, unless in continuous transit, the lobster EEZ Offshore Management Area 3.

(ii) Changing the elected management area designation to the EEZ Offshore Management Area 3.

(iii) Changing the elected EEZ Nearshore Management Area designation for the remainder of the fishing year in which the EEZ Nearshore Management Area designation was elected.

(4) A vessel issued a designation certificate electing more than one EEZ Nearshore Management Area (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) and/or the Area 2/3 Overlap must abide by the most restrictive management measures in effect for the areas elected for the entire fishing year.

(5) Vessels issued a designation certificate electing any of the EEZ Nearshore Management Area designations (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) or the Area 2/3 Overlap are subject to trap allocation requirements established in § 697.33 (a) and (b) and subject to trap tag allocation requirements established in § 697.34.

(6) Vessels issued a designation certificate electing the lobster EEZ Offshore Management Area 3 regardless of whether the vessel changes ownership after election, are prohibited from:

(i) Fishing for, landing from, or possessing lobsters in, unless in continuous transit, any of the lobster EEZ Nearshore Management Areas (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6), or;

(ii) Changing the elected management area designation for the duration of the fishing year in which the EEZ Offshore Management Area 3 was elected.

(7) A vessel issued a designation certificate electing the lobster EEZ Offshore Management Area 3 may elect to change to the lobster EEZ Nearshore Management Areas (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) during the annual permit renewal process, but once the vessel is issued a designation certificate in any of the EEZ Nearshore Management Areas (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6), regardless of whether the vessel changes ownership after election, the vessel is prohibited from:

(i) Fishing for, landing from, or possessing lobster in the EEZ Offshore Management Area 3, for that fishing year or;

(ii) Changing the elected management area designation to the EEZ Offshore Management Area 3 for any subsequent fishing year.

(8) Vessels issued a designation certificate electing the EEZ Offshore Management Area 3 shall be subject to trap allocation requirements established in § 697.33 (c) and (d) and subject to trap tag allocation requirements established in § 697.34 for the entire fishing year, regardless of whether the vessel changes ownership after election.

(9) A vessel issued a designation certificate electing the EEZ Offshore Management Area 3 and the Area 2/3 Overlap must abide by the most restrictive management measures in effect for the areas elected for the entire fishing year, regardless of whether the vessel changes ownership after election.

(10) If a vessel is bought, sold, or otherwise transferred, the management area designation(s) transfer with the vessel.

(b) [Reserved]

§ 697.33 Trap allocations.

(a) Beginning on May 1, 1999, it shall be unlawful for vessels issued a designation certificate electing to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) or the Area 2/3 Overlap to fish with, deploy in, possess in, or haul back from such area more than 1,000 traps.

(b) Beginning on May 1, 2000, it shall be unlawful for vessels issued a designation certificate electing to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape Lobster Management Area, Area 2, Area 2/3 Overlap, Area 4, Area 5, or Area 6) or the Area 2/3 Overlap to fish with, deploy in, possess in, or haul back from such area more than 800 traps.

(c) Beginning on May 1, 1999, it shall be unlawful for vessels issued a designation certificate electing to fish in the EEZ Offshore Management Area 3 to:

(1) Fish with, deploy in, possess in, or haul back from such area more than 2,000 traps.

(2) Fish with, deploy in, or haul back traps in any EEZ Nearshore Management Area (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) or state waters.

(d) Beginning on May 1, 2000, it shall be unlawful for vessels issued a designation certificate electing to fish in the EEZ Offshore Management Area 3 to:

(1) Fish with, deploy in, possess in, or haul back from such area more than 1,800 traps.

(2) Fish with, deploy in, or haul back traps in any EEZ Nearshore Management Area (Area 1, Outer Cape Lobster Management Area, Area 2, Area 4, Area 5, or Area 6) or state waters.

(e) *On-shore trap count.* When requested by an authorized officer, vessel owners must display lobsters traps for an on-shore count to verify the amount of lobster traps being fished in compliance with this section.

§ 697.34 Trap tag allocations.

(a) A permit holder letter will be sent to all eligible Federal limited access American lobster vessels informing them of the costs associated with the

tagging requirement and directions for obtaining tags.

(1) Each owner of a vessel issued a Federal limited access American lobster permit that fishes with traps capable of catching American lobster must complete a lobster management area designation and trap program application form, indicate the number of lobster trap tags that they are requesting, and include a check for the cost of the tags. The Regional Administrator will notify the applicant of any deficiency in the application pursuant to this section. It shall be unlawful to fish for, retain on board, land, or possess American lobster until the application is complete and the permit is issued.

(2) The Regional Administrator may, by agreement with state agencies, permit trap tags issued by those agencies to fish for lobster in the EEZ in lieu of trap tags required by this part, provided that such tagging programs accurately identify Federal limited access American lobster permit holders who fish in the EEZ, and that the Regional Administrator can either individually, or in concert with the state agency, act to suspend the permit or license for EEZ fishing for any violation under this part.

(3) Alternate state EEZ tagging programs may be established through an appropriate agreement between the Regional Administrator and the state concerned, dependent upon state and Federal enabling authorities. The letter of agreement will specify the information to be collected, how it will be collected, and how often it will be collected and provided to the Regional Administrator by the alternate EEZ tagging program. The Regional Administrator will, in cooperation with the state, arrange for notification of the existence and terms of any such agreements to the affected persons. Persons intending to fish in the EEZ should determine whether an alternate EEZ tagging program is in force for their state before applying for a Federal permit under § 697.4.

(b) (1) In any fishing year, the maximum number of tags authorized for direct purchase by each permit holder shall be the applicable trap limit specified in § 697.33 plus an additional 10 percent to cover trap loss.

(2) *Lost tags.* Vessel owners or operators are required to report in writing to the Regional Administrator lost, destroyed, and missing tags within 24 hours after the tags have been discovered lost, destroyed, or missing, on an official lobster trap tag replacement order form signed by the permit holder or authorized representative.

(3) *Replacement tags.* Requests for replacement of lost tags in excess of the tag limit specified in paragraph (b)(1) of this section must be submitted in writing to the Regional Administrator on an official lobster trap tag replacement order form, signed by the permit holder or authorized representative. The form and request for replacement tags will be reviewed by the Regional Administrator on a case by case basis and a decision will be reached on the number of replacement tags to be issued, if any. A check for the cost of the replacement tags must be received before tags will be re-issued.

(c) Effective May 1, 1999, it shall be unlawful to:

(1) Fish any lobster trap in Federal waters unless a valid Federal lobster trap tag is permanently attached to the trap bridge or central cross-member.

(2) Fail to produce, or cause to be produced, lobster trap tags when requested by an authorized officer.

(3) Reproduce, or cause to be reproduced, lobster trap tags without the written consent of the Regional Administrator.

(4) Tag a lobster trap with, or use, a lobster trap tag that has been reported lost, missing, destroyed, or issued to another vessel.

(5) Sell, transfer, or give away lobster trap tags that have been reported lost, missing, destroyed, or issued to another vessel.

§ 697.35 Non-trap harvest restrictions.

(a) *Non-trap trap landing limits.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for a vessel that takes lobster on a fishing trip in the EEZ by a method other than traps to possess, retain on board, or land, in excess of 100 lobsters, for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters for any one trip, unless otherwise restricted by § 648.80(a)(3)(i), § 648.80(a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), or (b)(3)(ii) of this chapter.

(b) All persons that take lobsters on a fishing trip in the EEZ are prohibited from transferring or attempting to transfer American lobster from one vessel to another vessel.

(c) Any vessel on a fishing trip in the EEZ that takes lobster by a method other than traps may not possess on board, deploy, fish with, or haul back traps.

§ 697.36 Adjustment to management measures.

(a) On or before February 15, 2001, and annually on or before February 15, thereafter, NMFS may, after consultation with the Commission, file with the Office of Federal Register for publication of a proposed rule to implement additional or different management measures for Federal waters in any of the management areas specified in § 697.31(a) if it is determined such measures are necessary to achieve or be compatible with ISFMP objectives, or the ISFMP, to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. These management measures may include, but are not limited to, continued reductions of fishing effort or numbers of traps, increases in minimum or maximum size, increases in the escape vent size, decreases in the lobster trap size, closed areas, closed seasons, landing limits, trip limits and other management area-specific measures as may be identified and recommended by the Commission prior to December 1 of the previous year. After considering comment, NMFS shall file with the Office of Federal Register for publication of a final rule to implement any such measures.

(b) At any other time, NMFS may file with the Office of Federal Register for publication of a proposed rule, after consultation with the Commission, to implement any additional or different management measures in order to achieve ISFMP objectives or be consistent or compatible with Commission measures or recommendations. After considering public comments, NMFS may file with the Office of Federal Register for publication of a final rule to implement any such measures.

(c) Notwithstanding other provisions of this part, NMFS may publish any additional or different management measures as described herein without prior public comment, pursuant to and consistent with 5 U.S.C. 553.

[FR Doc. 99–835 Filed 1–11–99; 3:35 pm]

BILLING CODE 3510–22–P

federal register

Friday
January 15, 1999

Part III

Department of Education

Proposed Funding Priorities for Fiscal Years 1999–2000 for Certain Centers; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Proposed Funding Priorities for Fiscal Years 1999–2000 for Certain Centers

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Years 1999–2000 for Certain Centers.

SUMMARY: The Secretary proposes funding priorities for one Rehabilitation Research and Training Center (RRTC) and two Rehabilitation Engineering Research Centers (RERCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before February 16, 1999.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Comments may also be sent through the Internet: comments@ed.gov.

You must include the term ''Research Centers'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna__Nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains proposed priorities under the Disability and Rehabilitation Research Projects and Centers Program for one RRTC related to rehabilitation of persons with traumatic brain injury and two RERCs related to universal design and the built environment, and telecommunications access. There are references in the proposed priorities to NIDRR's Long-Range Plan (LRP). The LRP can be accessed on the World Wide Web at: http://www.ed.gov/legislation/FedRegister/announcements/1998–4/102698a.html.

These proposed priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764).

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

Rehabilitation Research and Training Centers

Authority for the RRTC program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(b)(2)). Under this program the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Description of Rehabilitation Research and Training Centers

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel and other rehabilitation personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority.

Proposed Priority 1: Rehabilitation of Persons With Traumatic Brain Injury (TBI)

Introduction

Chapter Four of NIDRR's proposed Long-Range Plan (63 FR 57204) addresses research on trauma rehabilitation, including brain injury. A 1998 draft National Institute of Health's Consensus Development Conference Statement on Rehabilitation of Persons with TBI identifies emotional, cognitive, behavioral, and physical symptoms of TBI that affect the individuals with TBI, family, friends, community, and society. The report raises important research issues related to children, the elderly, and persons who experience mild TBI symptoms.

NIDRR has a long history of support for research on TBI that has focused primarily on adults with moderate and severe injuries. This RRTC will address the needs of all age groups including children and the elderly. In addition, the RRTC will expand its focus to include persons with mild TBI. For the purpose of this proposed priority, mild TBI is defined using the definition developed in 1991 by the Mild TBI Committee of the Head Injury Interdisciplinary Special Interest Group of the American Congress of Rehabilitation Medicine definition (see Esselman, P. and Uomoto, J., ''Classification of the Spectrum of Mild Traumatic Brain Injury,'' *Brain Injury*, Vol. 9, No. 4, pgs. 417–424, 1995).

Proposed Priority

The Secretary proposes to establish an RRTC for the purpose of developing interventions to improve the functional abilities and promote the independence of persons with TBI. The RRTC shall:

(1) Develop and evaluate methodologies to assess the epidemiology and long term consequences of mild TBI and identify interventions for rehabilitation;

(2) Develop and evaluate innovative methods of diagnosis and treatment of the medical, psychological, and neurobehavioral sequelae of TBI across all age groups;

(3) Develop and evaluate innovative interventions to assist families;

(4) Develop and test prognostic indicators of rehabilitation outcomes including early predictors of functional outcomes for all age groups;

(5) Provide training on research methodology and applied research experience, and training on knowledge gained from the Center's research activities to persons with disabilities and their families, service providers, and other appropriate parties;

(6) Develop and disseminate informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties;

(7) Involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center;

(8) Conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant; and

(9) Coordinate with other entities carrying out related research or training activities including NIDRR's grantees on TBI.

Description of Rehabilitation Engineering Research Centers

RERCs carry out research or demonstration activities by:

(a) Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (1) solve rehabilitation problems and remove environmental barriers, and (2) study new or emerging technologies, products, or environments;

(b) Demonstrating and disseminating (1) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas, and (2) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

(c) Facilitating service delivery systems change through (1) the development, evaluation, and dissemination of consumer-responsive and individual and family-centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services, and (2) other scientific research to assist in meeting the employment and independent needs of individuals with severe disabilities.

Each RERC must provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RERC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

Proposed General RERC Requirements

The Secretary proposes that the following requirements apply to these RERCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process. The Secretary is interested in receiving comments on these proposed requirements:

The RERC must have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to relevant production and service delivery settings. The RERC must evaluate the efficacy and safety of its new products, instrumentation, or assistive devices.

The RERC must disseminate research results and other knowledge gained from the Center's research and development activities to persons with disabilities, their representatives, disability organizations, businesses, manufacturers, professional journals, service providers, and other interested parties.

The RERC must develop and carry out utilization activities to successfully transfer all new and improved technologies developed by the RERC to the marketplace.

The RERC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, development, training, and dissemination activities, and in evaluating the Center.

The RERC must conduct a state-of-the-science conference and publish a comprehensive report on the final outcomes of the conference. The report must be published in the fourth year of the grant.

The RERC must coordinate with other entities carrying out related research or training activities.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities.

Proposed Priority 2: Universal Design and the Built Environment Introduction

Chapter 5 of NIDRR's Long-Range Plan (63 FR 57207) discusses the importance of improving access to the built environment through universal design. Universal design is a process whereby environments and products are designed with built-in flexibility so they are usable by all people, regardless of age and ability, at no additional cost to the user. For the purpose of this priority, the built environment includes public and private buildings, houses, landscapes, and tools and objects of daily use (e.g., door openers, environmental control systems, and appliances).

In order to create environments that are universal in nature, it is necessary to have a database of physical measurements of the human body (i.e., anthropometric data) that includes persons with disabilities. There is a need for more anthropometric data on persons with disabilities. A 1996 report from the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) concluded that research was needed regarding how people with disabilities access toilet and bathing facilities. NIDRR expects this RERC to develop a prototype anthropometric database that can be used to create universally designed toileting facilities and adapted for the development of other anthropometric databases for persons with disabilities.

Proposed Priority

The Secretary proposes to establish an RERC on universal design and the built environment to advance the field of universal design and improve the accessibility of the built environment. The RERC must:

(1) Develop and evaluate universally designed plans and products for the built environment;

(2) Develop a prototype anthropometric database, both static and dynamic, of persons with disabilities, including those who use manual or powered wheelchairs, to access and use toilet and bathing facilities;

(3) Identify, develop and evaluate strategies for promoting adoption of universal design in the building and product manufacturing industries, and design and architecture curricula; and

(4) Serve as a national information resource on universal design standards, plans, building products, funding sources, and performance evaluations for designers, builders and manufacturers.

In carrying out these purposes, the RERC must coordinate on activities of mutual interest with the RERCs on Telecommunications Access and Information Technologies Access, and the Access Board.

Proposed Priority 3: Telecommunications Access

Introduction

Chapter 5 of NIDRR's Long-Range Plan (63 FR 57207) discusses the importance of telecommunications accessibility and the need for continued research and development. For the purpose of this priority, telecommunications systems and products include, but are not limited to, wireless communication technologies, networks, multimedia conferencing systems, and software supporting these technologies, products, and systems.

The RERC on Telecommunications Access faces the challenge of promoting access to a highly dynamic field. In order to keep pace with developments in the field, NIDRR expects this RERC to undertake its research and development activities in close collaboration with private industry as well as with public entities that regulate the telecommunications industry. NIDRR expects this RERC to contribute to improving the employment status of persons with disabilities by providing employers with technical assistance and by providing persons with disabilities with information to make them better consumers.

Proposed Priority

The Secretary proposes to establish an RERC on telecommunications access for the purpose of developing technological solutions and promoting access for persons with disabilities to current and emerging telecommunications systems and products. The RERC must:

(1) Develop and evaluate in collaboration with industry technological solutions to promote accessibility and universal design at the outset of the development of telecommunications systems and products;

(2) Develop and disseminate strategies for integrating current accessibility features into newer generations of telecommunications systems and products;

(3) Provide technical assistance to public and private organizations responsible for developing policies, guidelines, and standards that affect the accessibility of telecommunications technology products and systems, including the Access Board and the Federal Communications Commission; and

(4) Provide technical assistance and guidance to individuals with disabilities and employers on accessibility issues affecting current telecommunications systems and products.

In carrying out these purposes, the RERC must coordinate on activities of mutual interest with the RERCs on Information Technology Access, Telerehabilitation, Hearing Enhancement, Blindness and Low Vision, and Universal Design and the Built Environment.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Part 350.

Program Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Number 84.133B, Rehabilitation Research and Training Centers and 84.133E, Rehabilitation Engineering Research Centers)

Dated: January 11, 1999.

Curtis L. Richards,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–897 Filed 1–14–99; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
January 15, 1999

Part IV

Department of Housing and Urban Development

Funding Availability for the Community Development Work Study Program, Fiscal Year 1999; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4409–N–01]

Notice of Funding Availability for the Community Development Work Study Program Fiscal Year 1999

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces the availability of approximately $3.0 million for the Community Development Work Study Program (CDWSP).

Purpose of the Program: To provide assistance to economically disadvantaged and minority graduate students who participate in community development work study programs and are enrolled full-time in a graduate community building academic degree program.

Available Funds: Approximately $3 million from FY 1999 appropriations (plus any additional funds recaptured from prior appropriations).

Eligible Applicants: Institutions of higher education, area-wide planning organizations (APOs), and States.

Application Deadline: March 19, 1999.

Matching Requirements: None.

Additional Information

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2528–0175. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Application Due Date, Application Kits, and Technical Assistance

Application Due Date: Your completed application must be received at the address listed below on *March 19, 1999*, based on the following submission requirements.

Application Procedures: Mailed Applications. Your application will be considered as filed on time if it is postmarked on or before 12:00 midnight on the application due date and received at the designated address below on or within ten (10) days of the application due date.

Applications Sent by Overnight/ Express Mail Delivery. If your application is sent by overnight or express mail, it will be considered as filed on time if it is received on or before the application due date, or if you submit documentary evidence that the application was placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. If you hand carry your application on or before the application due date, it must be brought to the specified location and room number between the hours of 8:45 am and 5:15 pm, Eastern Standard Time. If you hand carry your application on the application due date, it will be accepted in the South Lobby of the HUD Headquarters Building at the above address from 5:15 pm to the 12:00 midnight, Eastern Standard Time.

Address for Submitting Applications: Your completed applications (one original and two copies) must be submitted to: Processing and Control Branch, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC 20410. When submitting your application, you should include your name, mailing address (including zip code) and telephone number (including area code).

For Application Kits, Further Information, and Technical Assistance:

For Application Kits: You may obtain an application kit by calling HUD USER at 1–800–245–2691. If you have a hearing or speech impairment, you may call the following TTY number: 1–800–483–2209. You may also access the application kit on the Internet from HUD's web site at www.hud.gov. When requesting an application, you should refer to CDWSP and include your name, mailing address (including zip code) and telephone number (including area code).

For Further Information and Technical Assistance: Jane Karadbil, Office of University Partnerships at (202) 708–1537, ext. 5918. Hearing- or speech-impaired individuals may call HUD's TTY number (202) 708–0770, or the Federal Information Relay Service at 1–800–877–8339. Other than the ''800'' number, these numbers are not toll-free. Ms. Karadbil can also be reached via the Internet at: Jane__R.__Karadbil@hud.gov.

II. Amount Allocated

Up to $3 million, plus any additional funds recaptured from prior appropriations.

III. Program Description; Eligible Applicants; Eligible Activities and Costs

(A) Program Description

CDWSP funds two-year grants to institutions of higher education, area-wide planning organizations, and States to provide assistance to economically disadvantaged and minority graduate students who participate in a community development work study program and are enrolled full-time in a graduate community building academic degree program. Grants will cover the academic period August 1999 through August 2001.

(B) Eligible Applicants

You must demonstrate that you are eligible to apply for the program. You are an eligible applicant if (a) you are an institution of higher education offering graduate degrees in a community development academic program, (b) an Area-wide Planning Organization (APO) applying on behalf of two or more eligible institutions of higher education located in the same SMSA or non-SMSA as the APO (as a result of a final rule for the program published at 24 CFR 570.415, institutions of higher education are permitted to choose whether to apply independently or through an APO); or (c) a State applying on behalf of two or more eligible institutions of higher education located in the State. If a State is approved for funding, institutions of higher education located in the State are not eligible recipients.

(C) Eligible Activities and Costs

You may request no more than $15,000 per year per student, for a total of two years. The total is broken down as follows: an administrative allowance of $1,000 per student per year; a work stipend of no more than $9,000 per student per year; and tuition, fees, and additional support of no more than $5,000 per student per year.

IV. Program Requirements

(A) Statutory Requirements

You must comply with all statutory and regulatory requirements applicable to this program. CDWSP regulations can be found at 24 CFR part 570.415. Copies of the regulations are included in the application kit and also contained on the HUD web site.

(B) Eligibility of the Degree Program

An eligible community building academic degree program includes but is not limited to graduate degree programs in community and economic development, community planning, community management, public administration, public policy, urban

economics, urban management, and urban planning. The term excludes social and humanistic fields such as law, economics (except for urban economics), education, and history. The term also excludes joint degree programs except where both joint degree fields have the purpose and focus of educating students in community building.

You are encouraged to contact Jane Karadbil at the above listed telephone number if you have any questions about eligibility of a proposed degree program.

(C) Affirmative Fair Housing Marketing

You are not required to comply with HUD's affirmative fair housing marketing requirements.

V. Application Selection Process

(A) Two Types of Reviews

Two types of reviews will be conducted—a threshold review to determine applicant eligibility and a rating based on the selection criteria for all applications that pass the threshold review.

(B) Threshold Criteria for Funding Consideration

(1) *General threshold requirements.* You must meet the following threshold requirement before an application can be evaluated, rated, and ranked:

(a) You must be eligible to apply for the program.

(b) You must comply with all Fair Housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR § 5.105(a). If you (i) have been charged with a violation of the Fair Housing Act by the Secretary; (ii) are the defendant in a Fair Housing lawsuit filed by the Department of Justice; or (iii) have received a letter of noncompliance findings under Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, or section 109 of the Housing and Community Development Act, you are not eligible to apply for funding under this NOFA until you have resolved such charge, lawsuit, or letter of findings to the satisfaction of the Department.

(c) Number of students to be assisted. You may request funding for as many as five students, and in no case, for no less than three students, since work plan and other facets of the evaluation are assessed in the context of the number of students for whom funding is requested. Any application containing a request for fewer than three or more than five students per institution, it will be disqualified.

(d) Eligibility of the Applicant and Its Proposed Academic Degree Program. You must demonstrate that you are eligible to participate in the program, by demonstrating that you are either an institution of higher education that offers graduate degrees in at least one eligible community building academic program or you are an APO or State submitting an application on behalf of such institutions. Your application must also demonstrate that each institution participating in your program has the faculty to carry out its activities under your program. Each work placement agency must be involved in community building and must be an agency of a State or unit of local government, an area-wide planning organization, an Indian tribe, or a private nonprofit organization.

(e) Graduation Rates. You must maintain at least a 50 percent rate of graduation of students from the FY 1996 funding round, which covered school years September 1996 to September 1998, in order to be eligible to participate in the current round of CDWSP funding. If you were funded under the FY 1996 CDWSP funding round and did not maintain such a rate, you will be excluded from participating in the FY 1999 funding round.

(C) Factors for Award Used to Evaluate and Rate Applications

To review and rate applications, the Department may establish panels including persons not currently employed by HUD to obtain certain expertise and outside points of view, including views from other Federal agencies. You will be evaluated competitively and ranked against all other applicants that have applied for the same funding program.

(D) General Factors for Award Used to Evaluate and Rank Applications

The factors for rating and ranking your application, and maximum points for each factor, are provided below. The maximum number of points for each program is 100. The rating of your organization and staff, unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia that are firmly committed to your project, to the extent of their participation.

(1) Quality of the Academic Program

(30 points) HUD will evaluate the quality of the academic program you offer (or in the case of an application from an APO or State, those offered by the institutions included in your application) including, without limitation, the:

(i) Quality of your course offerings in terms of their depth, sophistication, quality, and emphasis on applied coursework;

(ii) Appropriateness of your course offerings for preparing students for careers in community building; and

(iii) Qualifications of your faculty and percentage of their time devoted to teaching and research in community building.

(2) Quality of the Work Placement Assignments

(15 points) HUD will evaluate the extent to which participating students will receive a sufficient number and variety of work placement assignments, the assignments will provide practical and useful experience to students participating in your program, and the assignments will further the participating students' preparation for professional careers in community building. In applying this factor, HUD will consider the quality in terms of relevance to community building and variety of work placement agencies and the quality and variety of projects/experiences at each agency and overall. You must have a plan for rotating students among work placement agencies. Students engaging in community building projects through an institution of higher education may do so only through a community outreach center, which will in that instance be considered a work placement agency even if the community building projects are undertaken with or through a separate organization or entity. Accordingly, students engaging in community building through an institution of higher education's outreach center should do so during only part of their academic program and should rotate to other work placement agency responsibilities identified in the CDWSP regulations.

(3) Effectiveness of Program Administration

(18 points) HUD will evaluate the degree to which you will be able to coordinate and administer your program. HUD will allocate the maximum points available under this criterion equally among the following three considerations, except that the maximum points available under this criterion will be allocated equally only between (i) and (ii), where you have not previously administered a CDWSP-funded program.

(i) The strength and clarity of your plan for placing CDWSP students on rotating work placement assignments and for monitoring CDWSP students' progress both academically and in their work placement assignments;

(ii) The degree to which the individual who will coordinate and administer your program has clear responsibility, ample available time, and sufficient authority to do so;

(iii) The effectiveness of your prior coordination and administration of a CDWSP-funded program, where applicable (including the timeliness and completeness of your compliance with CDWSP reporting requirements). In addressing the timeliness of reports, you should review your prior CDWSP grant agreements and reports and compare when reports were due with when the reports actually were submitted.

(4) Demonstrated Commitment of the Applicant to Meeting the Needs of Economically Disadvantaged and Minority Students

(10 points) HUD will evaluate your commitment to meeting the needs of economically disadvantaged and minority students as demonstrated by your policies and plans, and past efforts and successes in, recruiting, enrolling and financially assisting economically disadvantaged and minority students, including the provision of reasonable accommodations for students with disabilities. If you are an APO or State, HUD will consider the demonstrated commitment of each institution of higher education on whose behalf you are applying; HUD will also consider your demonstrated commitment to recruit and hire economically disadvantaged and minority students.

(5) Rates of Graduation (7 points) HUD will evaluate the rates of students previously enrolled in a community building academic degree program, specifically (where applicable) graduation rates from any previously funded CDWSP academic programs or similar programs.

(6) Extent of Financial Commitment (10 points) HUD will evaluate your commitment and ability to assure that CDWSP students will receive sufficient financial assistance above and beyond the CDWSP funding to complete their academic program in a timely manner and without working in excess of 20 hours a week during the school year. When addressing this issue, you should, among other responsive information, delineate the full costs budgeted annually for a student, explain the basis for your budget and explain how the financial assistance package you will offer to each CDWSP student will meet that budget. You should have an adequate means of addressing reasonable variations in budget needs among students and for addressing emergency financial needs of students.

(7) Likelihood of Fostering Students' Permanent Employment in Community Building (10 points) HUD will evaluate the extent to which your proposed program will lead participating students directly and immediately to permanent employment in community building, as indicated by:

(i) Your past success in placing your graduates (particularly CDWSP-funded and similar program graduates, where applicable) in permanent employment in community building; and

(ii) The amount of faculty/staff time and resources you devote to assisting students (particularly students in CDWSP-funded and similar programs, where applicable) in finding permanent employment in community building.

VI. Application Submission Requirements

(A) Content of Application

Your application should include an original and two copies of the items listed below. In order to be able to recycle paper, you should not submit applications in bound form; binder clips or loose leaf binders are acceptable. Also, please do not use colored paper.

(1) Transmittal Letter, which must be signed by your Chief Executive Officer, or his or her designee. If a designee signs, your application must contain a copy of the official delegation of signatory authority. The letter must contain an assurance that you were not awarded a CDWSP grant in Fiscal Year 1996 (which was to cover the school years August 1996 to August 1998) or were awarded a Fiscal Year 1996 grant and had a 50 percent or higher rate of graduation of CDWSP students funded through the grant.

(2) Designation of your degree program(s) under which students will be educated.

(3) Executive Summary.

(4) Narrative statement addressing the Factors for Award in Section V (E) and (F). No attachments are permitted.

(5) Management/Work Plan.

(6) Recipient/Student Binding Agreement. HUD does not provide a model or sample format for this document.

(7) Recipient/Work Placement Agreement. HUD does not provide a model or sample format for this document.

(8) Budget. Using the forms provided for the August 1999 through August 2001 funding period.

(9) Application for Federal Assistance (HUD–424).

(10) Standard Form for Assurances—Non-Construction Programs (SF–424B).

(11) Drug-Free Workplace Certification (HUD–50070).

(12) Certification and Disclosure Form Regarding Lobbying (SF–LLL).

(13) Applicant/Recipient Disclosure Update Report (HUD–2880).

(14) Assurance regarding the applicant's financial management systems.

(B) Final Selection

If your application passes the threshold requirements, it will be rated and then ranked based on its total score on the selection factors. Your application will be considered for selection based on its rank order. HUD may make awards out of rank order to achieve geographic diversity, and may provide assistance to support a number of students that is less than the number requested under your application or a lower funding level per student, in order to provide assistance to as many highly ranked applications as possible.

If there is a tie in the point scores of two applications, the rank order will be determined by the scores on the selection factor entitled ''Quality of the Academic Program.'' The application with the most points on this factor will be given the higher rank. If there is still a tie, the rank order will be determined by the applicants' scores on the selection factor entitled ''Effectiveness of program administration.''

The application with the most points for this selection factor will be given the higher rank.

If there are insufficient funds to fund an application, even if the request is reduced to the minimum number of students which could be funded (i.e., three students per institution of higher education), HUD may select the next ranked application which would not exceed the funding left available and still fund the minimum number of students allowed.

HUD reserves the right to make selections out of rank order to provide for geographic distribution of funded CDWSPs. If HUD decides to use this option, it will do so only if two adjacent HUD regions do not yield at least one fundable CDWSP on the basis of rank order. If this occurs, HUD will fund the highest ranking applicant within the two regions.

HUD reserves the right to reduce your amount of funding in order to fund as many highly ranked applications as possible. Additionally, if funds remain after funding the highest ranked application, HUD may fund part of the next highest ranking application (as long as it would provide assistance to the minimum number of students required to be served) in a given program area. If you turn down the award offer, HUD will make the same

determination for the next highest-ranking application. If funds remain after all selections have been made, the remaining will be carried over to the next funding cycle's competition.

(C) Negotiations

After selections have been made, HUD may require winners to participate in negotiations to determine the Grant Budget. In cases where HUD cannot successfully conclude negotiations, or you fail to provide HUD with requested information, an award will not be made. In such instances, HUD may elect to offer an award to the next highest ranking applicant, and proceed with negotiations with the next highest applicant.

VII. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from you. HUD may contact you, however, to clarify an item in the application or to correct technical deficiencies. You should note, however, that HUD may not seek a clarification of items or responses that improve the substantive quality of your response to any eligibility or selection criterion. *Examples* of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit your application containing an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify you by facsimile or by return receipt requested. You must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 14 calendar days of the date of receipt of the HUD notification. If you do not correct the deficiency within this time period, your application will be rejected as incomplete.

VIII. Environmental Requirements

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321) and no Finding of No Significant Impact is needed. In addition, the provision of assistance under this NOFA is categorically excluded from environmental review under § 50.19 (b)(3) and (b)(9).

IX. Other Matters

(A) Federalism, Executive Order 12612

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies and procedures contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This notice merely invites applications from certain institutions of higher education for grants under CDWSP or HSI–WSP. As a result, the notice is not subject to review under the Order.

(B) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA (except Indian Housing Authorities established by tribal governments exercising their sovereign powers with respect to expenditures specifically permitted by Federal law) are subject to the provision of Section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the application kit.

The Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995), which repealed section 112 of the HUD Reform Act and resulted in elimination of the regulations at 24 CFR part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

(C) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(D) Section 103 of the HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a),

codified in 24 CFR part 4, apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics-related questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact HUD's Ethics Law Division (202) 708–3815 (voice), (202) 708–1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

(E) Catalog of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number is: 14.234.

X. Authority

Section 107(c) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) authorizes CDWSP. Regulations for the program appear at 24 CFR 570.415.

Dated: January 11, 1999.

Lawrence L. Thompson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 99–947 Filed 1–14–99; 8:45 am]

BILLING CODE 4210–32–P

federal register

Friday
January 15, 1999

Part V

Environmental Protection Agency

Department of the Interior
Fish and Wildlife Service

Department of Commerce
National Oceanic and Atmospheric Administration

Draft Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and the Endangered Species Act; Notice

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[FRL–6219–4]

Draft Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and the Endangered Species Act

AGENCIES: Environmental Protection Agency, Fish and Wildlife Service, Interior, and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service are publishing for public comment a draft Memorandum of Agreement describing procedures for enhancing coordination regarding the protection of endangered and threatened species under section 7 of the Endangered Species Act and the Clean Water Act's Water Quality Standards and National Pollutant Discharge Elimination System programs.

DATES: Comments must be received or postmarked by midnight March 16, 1999.

ADDRESSES: An original and 4 copies of written comments should be submitted to W–98–32, ESA Comment Clerk, Water Docket (MC4101), USEPA 401 M Street SW, Washington, DC, 20460. Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may also be submitted electronically to ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by docket number W–98–32. Comments will also be accepted on disks in WP 5.1, WP 6.1, or ASCII file format.

The record for this draft Memorandum of Agreement has been established under docket number W–98–32, and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M Street, Washington, D.C. For access to docket materials, call 202–260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Barbara McLeod, Office of Water, Environmental Protection Agency (telephone 202–260–5681); Margaret Lorenz, Endangered Species Division, National Marine Fisheries Services (telephone 301–713–1401); or Richard Hannan, Division of Endangered Species, Fish and Wildlife Service (telephone 703–358–2171).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA), and the Fish and Wildlife Service and the National Marine Fisheries Service (the Services, referring to each Service individually or jointly, as appropriate), have developed a draft Memorandum of Agreement (MOA, or Agreement) describing how we will cooperate in implementing our respective responsibilities under the Clean Water Act (CWA) and the Endangered Species Act (ESA). Specifically, the draft MOA addresses the protection of endangered and threatened species under the Water Quality Standards and National Pollutant Discharge Elimination System (NPDES) programs established by sections 303(c) and 402 of the CWA, respectively.

EPA and the Services believe that a national agreement detailing how these programs protect an important component of the aquatic environment—endangered and threatened species—will help achieve the complementary goals of the CWA and the ESA. Section 101(a) of the CWA states that the goal of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. One important indicator of biological integrity is the extent to which the waters provide for the ''protection and propagation of fish, shellfish and wildlife.'' CWA section 101(a)(2). Conversely, a water body whose quality is contributing to a species' risk of extinction is not fulfilling the CWA's objectives or meeting the objectives of the ESA. Paying attention to the needs of endangered and threatened species as EPA implements the CWA will help achieve the goals of the CWA as well as the ESA's objective of providing ''a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved. * * *'' ESA 2(b).

In recent years, EPA and the Services have increased efforts to achieve greater integration of CWA and ESA programs. These activities have included ESA section 7 consultations on EPA's actions approving State and Tribal water quality standards and NPDES permitting programs. These consultations have generally been conducted by our regional and field offices on a case-by-case basis. We have found, however, that certain issues repeatedly arise in these consultations. These issues include: the extent to which water quality criteria are protective of listed species; the protection of non-aquatic wildlife; the appropriate scope of reasonable and prudent measures for minimizing incidental take of listed species; research needs to address areas of uncertainty; and interagency coordination with regard to EPA oversight of NPDES permits issued by States or Tribes. A coordinated national approach would help ensure an appropriate level of protection for listed species and greater regulatory predictability for States, Tribes, and the public. Enhanced cooperation among the agencies, by more effectively ensuring that effects from pollutants on listed species are addressed under existing authorities, should also help avoid the need to list new species under the ESA and facilitate recovery of species so that they no longer require protection under the ESA.

The draft MOA also seeks to make ESA section 7 consultations more timely and efficient. Some consultations between the EPA and the Services have been protracted (the average water quality standards consultation has, for example, taken approximately eighteen months), consuming considerable EPA and Service resources. By providing guidance to our field offices, enhancing coordination, and establishing procedures for resolving disagreements, the draft MOA seeks to streamline the consultation process, helping us and interested parties that depend on timely decision-making by the Federal government.

The draft MOA is a procedural document that addresses how EPA and the Services intend to exercise our existing statutory and regulatory authorities in a coordinated manner. A final MOA will be guidance to our field office staff that does not alter, expand, or substitute for applicable legal requirements. Therefore, development of the MOA is not subject to the notice and comment rule-making requirements of the Administrative Procedure Act, 5 U.S.C. 553. However, we believe that

these procedures would benefit from public input, and we will consider all public comments received prior to the date in the **DATES** section above.

EPA and the Services have also been engaged in discussions regarding the development of procedures for coordination with regard to State/Tribal permitting programs under sections 404 and 405 of the CWA, and we plan to continue our discussions in these areas.

I. Statutory Background

Section 7 of the ESA imposes substantive and procedural obligations on Federal agencies. Section 7(a)(1) of the ESA requires Federal agencies, in consultation with and with the assistance of the Services, to utilize their authorities to further the purposes of the ESA by carrying out programs for the conservation of listed threatened and endangered species. Section 7(a)(2) of the ESA states that Federal agencies shall, in consultation with, and with the assistance, of the Services, insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of habitat that has been designated as critical for the species. Section 7(a)(4) of the ESA also requires that Federal agencies confer with the Services on any agency action that is likely to jeopardize the continued existence of any species proposed for listing, or result in the destruction or adverse modification of proposed critical habitat. Regulations outlining the process for section 7 consultation and conference are codified at 50 CFR part 402.

The ESA also makes it unlawful for any person to ''take'' any fish or wildlife species that is listed under the Act. ESA 9(a)(1)(B). ''Take'' is defined to mean ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct.'' 16 U.S.C. 1532(19). However, the Services may provide an exemption to the prohibition on take that is incidental to otherwise legal activity through a statement that is attached to a biological opinion. The incidental take statement specifies the terms and conditions necessary to carry out reasonable and prudent measures that will minimize the incidental take.

EPA's authorities under the water quality standards and NPDES permitting programs are contained in sections 303(c), 304(a) and 402 of the CWA. Under section 303(c), the development of water quality standards is primarily the responsibility of States and Tribes qualified for treatment in the same manner as States, with EPA exercising an oversight role. Water quality standards consist of three components: (1) the designated uses of waters, which can include use for public water supplies, propagation of fish and wildlife, recreational, agricultural, industrial and other uses; (2) water quality criteria, expressed in numeric or narrative form, reflecting the condition of the water body that is necessary to protect its designated use, and (3) an antidegradation policy that protects existing uses and provides a mechanism for maintaining high water quality. States and Tribes are required to review their standards every three years and any revisions or new standards must be submitted to EPA for approval. Section 303(c) contains time frames for EPA to review and either approve or disapprove standards submitted by a State or Tribe, and requires EPA to promulgate Federal standards to supersede disapproved State or Tribal standards. In addition, section 303(c) authorizes EPA to promulgate Federal standards whenever the Administrator determines that such standards are necessary to meet the requirements of the CWA. Regulations implementing section 303(c) are codified at 40 CFR part 131.

Under section 304(a) of the CWA, EPA from time to time publishes recommended water quality criteria that serve as scientific guidance for use by States or Tribes in establishing and revising water quality standards. These criteria are not enforceable requirements, but are recommended criteria levels that States or Tribes may adopt as part of their legally enforceable water quality standards. States or Tribes may adopt other scientifically defensible criteria instead of EPA's recommended criteria (see 40 CFR 131.11(b)).

The NPDES permitting program is established by section 402 of the CWA. Any person that discharges a pollutant (other than dredged or fill material) into waters of the United States from a point source must obtain an NPDES permit. *See* CWA section 301(a). (Dischargers of dredged or fill material must obtain a permit under section 404 of the CWA from the Army Corps of Engineers or an authorized State.) EPA issues permits under section 402 unless a State or Tribe has been approved by EPA to administer the permitting program. Any NPDES permit must contain limitations to reflect the application of available treatment technologies, as well as any more stringent limitations needed to ensure compliance with water quality standards. CWA 301(b). EPA has promulgated regulations governing the administration of the NPDES program. *See* 40 CFR parts 122, 124–125.

The CWA authorizes States or Tribes to administer the NPDES program provided the program meets the conditions specified in section 402(b) of the Act and EPA regulations. See 40 CFR part 123. Currently, 43 States and the U.S. Virgin Islands have received approval from EPA to operate the NPDES program. Authorized States and Tribes are required to maintain their programs consistent with minimum statutory and regulatory requirements. When EPA approves State or Tribal authority to administer an NPDES program, EPA maintains oversight responsibility, including the authority to review, comment on and, where a permit is ''outside the guidelines and requirements'' of the CWA, object to State or Tribal draft permits. CWA section 402(d)(2). If EPA objects to a State or Tribal permit and the State or Tribe fails to revise the permit to satisfy EPA's objection, the authority to issue the permit is transferred to EPA. Section 402(c) of the CWA authorizes EPA to withdraw the State's or Tribe's permitting authority if EPA determines the program is not being administered in accordance with the Act.

II. Public Outreach and Comments Received by EPA and the Services

EPA and the Services have developed this draft MOA after approximately two years of discussions. In addition, EPA communicated with stakeholders (e.g., States, Tribes, industry and environmental groups) about the MOA, and gave copies of a July 31, 1997, version of the draft MOA to each of the 50 State environmental agencies, several industry trade associations, environmental groups and any other party requesting a copy. We also invited these parties to provide comments on the draft and received approximately 90 comments. We recognize that other interested parties may not have had an opportunity to provide comments to the agencies, and therefore are providing an opportunity for comment on this draft. Below we have responded to some general concerns that were raised in comments we received to date. We hope that this discussion will help clarify the purpose and intent of this draft, and help the public in formulating comments.

While some commenters supported the basic approach in the MOA, most commenters expressed concerns that the draft MOA would significantly disrupt State CWA programs and undermine State and Tribal authorities under sections 303 and 402 of the CWA. Some commenters believed that the draft MOA raises significant legal issues regarding the applicability of section 7

consultation requirements to State, as opposed to Federal, water quality management activities. We believe that these comments misunderstand the intent and effect of the MOA, which is to make the existing coordination and consultation process between EPA and the Services more efficient and effective, not to impose any burdens on States or Tribes.

The draft MOA does not change our current policy of conducting section 7 consultations on EPA's actions approving water quality standards and NPDES permitting programs that may affect a listed species. Neither does the draft MOA alter the fact that section 7 of the ESA applies only to Federal agencies, not to States or Tribes. Rather, the draft MOA simply contains commitments by EPA and the Services about how we will work together in carrying out our own responsibilities under the ESA and the CWA.

EPA and the Services recognize that carrying out section 7 consultations on EPA approval of State and Tribal water quality standards and permitting programs presents special challenges. In most section 7 consultations, the Federal agency consults regarding its own activities or authorization of actions by third parties that affect listed species. Here, EPA is consulting with the Services on EPA's approval of State or Tribal programs that will, in turn, authorize activities potentially affecting listed species on an ongoing basis. The draft MOA seeks to facilitate Service involvement at the State and Tribal level, rather than only at the time the State or Tribal action has been completed and is being reviewed by EPA. Dialogue among EPA, the Services and States and Tribes through existing State or Tribal CWA procedures will best ensure that both CWA and ESA requirements are met.

The draft MOA would not override traditional State or Tribal authority or fundamentally alter relationships between the States, Tribes and EPA. The CWA gives States and Tribes primary responsibility for administration of the water quality standards and NPDES permitting programs, with EPA playing a carefully delineated oversight role. The draft MOA seeks to ensure that EPA's oversight takes into account the needs of listed species, but does not augment EPA's existing oversight authorities under sections 303(c) or 402 of the CWA.

Some commenters concluded that the draft MOA would give the Services the power unilaterally to ''veto'' State or Tribal NPDES permits or require changes to water quality standards. EPA is the agency vested with decision-making oversight authority under the CWA over State and Tribal water quality standards and permitting programs, and the MOA does not alter or diminish this authority. Under the MOA, EPA would continue to exercise its own independent judgment whether to object to a State or Tribal permit or to approve or disapprove State or Tribal water quality standards, based on all the available information, including the advice and recommendations of the Services. One commenter recognized that EPA would retain decision-making authority, but asserted that the practical effect of the draft MOA would be to give the Services veto power because EPA would want to avoid a disagreement with the Services. The MOA recognizes that EPA and the Services may not always agree, and the elevation procedures in the MOA will help resolve differences of opinion. However, the draft MOA does not diminish each agency's ultimate authority to make final decisions under its statutory authorities.

One commenter asserted that EPA and the Services have not demonstrated that the current ''system'' is inadequate and needs to be replaced with one that is more cumbersome. This comment appears to misunderstand the status quo. As discussed previously, section 7 of the ESA gives the Services a consultative role when EPA takes actions approving State and Tribal water quality standards and NPDES programs that may affect listed species. The MOA does not change or extend this role, but rather seeks to ensure consultations are carried out effectively and efficiently.

III. Summary of the Draft MOA

The major components of the MOA are summarized below. These components are (1) procedures for interagency coordination and elevation, (2) national level water quality standards activities, (3) review of State and Tribal water quality standards, and (4) oversight of State and Tribal NPDES permitting programs. In addition to summarizing these aspects of the draft MOA, we address below significant comments about each section submitted on the July 31, 1997, draft of the MOA.

A. Interagency Coordination and Elevation

The draft MOA provides that EPA and the Services will establish interagency coordinating teams at the regional and field office level to foster early and recurring collaboration on various CWA and ESA activities. Among other things, these teams will meet regularly and identify priority areas of concern and upcoming workload requirements. Enhancing the collaborative working relationships among our regional and field offices will mean more efficient allocation of our limited resources and more timely completion of section 7 consultations.

The draft MOA also contains an elevation procedure that we will use to resolve issues that may arise among EPA and the Services. Under this procedure, we will elevate areas of disagreement to regional office senior managers and, if necessary, to managers in our headquarters offices under specified time lines. This elevation procedure should help avoid delays in resolving issues, and speed the completion of section 7 consultations. The elevation procedures recognize, however, that each agency is responsible for final decisions implementing its own statutory authority. We intend to follow the elevation process contained in the draft MOA on an interim basis before finalizing the MOA to help assess the effectiveness of the process.

B. National Level Water Quality Standards Activities

The draft MOA describes several activities that EPA and the Services will undertake at the national level to facilitate consideration of endangered species issues in the water quality standards program. First, the MOA states that EPA will propose to amend its water quality standards regulations (40 CFR part 131) to require that water quality not likely jeopardize the continued existence of Federally-listed species or destroy or adversely modify designated critical habitat. The proposed rule would also require that State or Tribal policies authorizing the granting of mixing zones or variances not likely result in jeopardy, and require adoption of site-specific criteria where determined to be necessary to avoid the likelihood of jeopardy. A similar approach was taken by EPA in regulations promulgated for the Great Lakes basin. See 40 CFR 132.5(h); 56 FR 15384 (March 23, 1995).

EPA believes that the proposed rule essentially would codify existing protection for endangered and threatened species under the CWA since, in EPA's judgment, water quality that is so degraded that it will likely cause jeopardy to the continued existence of a species would generally not be consistent with protections provided by the Clean Water Act. Standards adopted by the State or Tribe to protect water quality. The proposed rule would be subject to public notice and opportunity for comment.

Many States commented that EPA should consult with the Services on

EPA's recommended water quality criteria published under section 304(a). The States believed that such consultations on a national level would be more efficient than consulting on criteria adopted by individual States, many of which are based on EPA's recommended criteria. EPA and the Services have engaged in further discussions in light of these comments. We recognize that the aquatic life criteria published by EPA only constitute guidance to the States, Tribes and the public regarding pollutant levels that EPA believes would protect aquatic life. These criteria are not binding on the States or Tribes, which may adopt EPA's criteria or any other criteria that are ''scientifically defensible.'' See 40 CFR 131.11(b). Moreover, water quality criteria published by EPA, because they are only guidance, do not establish legally enforceable requirements. Nonetheless, we believe it would be more efficient for us to consult once nationally on EPA's recommended criteria, rather than repeat the process on a case-by-case basis.

The draft MOA therefore provides that EPA and the Services will conduct a national consultation on EPA's recommended aquatic life criteria published under section 304(a) of the CWA. The agencies will undertake the consultation in a collaborative fashion and will endeavor to complete it within eighteen months of final adoption of the MOA. After this consultation is completed, separate consultations by EPA will not be required when approving State or Tribal aquatic life criteria that are identical to or more stringent than the recommended criteria, except where new species are listed that may be affected. Conducting this national consultation will help streamline EPA's compliance with section 7 of the ESA when approving State or Tribal water quality standards. During this national consultation, if a State or Tribe adopts and submits to EPA aquatic life criteria that are identical to or more stringent than the current 304(a) criteria, consultation on those criteria will take place through the national consultation and EPA will proceed with its approval of those criteria, subject to the understanding that EPA's action would be revised as appropriate based on the results of the national consultation.

This consultation process, as well as other consultations among EPA and the Services, may identify research that would facilitate our understanding of the effects of pollutants on endangered and threatened species. EPA and the Services recognize our joint interest in, and responsibility for, funding and conducting research related to the effects of water pollution on endangered and threatened species. The agencies' resources for conducting such research are limited, however, and the agencies must focus their efforts on pursuing research that can be carried out given budgetary constraints and will provide the greatest benefit to at-risk species. The agencies will therefore develop a national research and data gathering plan, which will make recommendations regarding consolidation and prioritization of any research and data gathering efforts identified by the agencies through section 7 consultation on the aquatic life criteria, or any other CWA consultation or coordination between the agencies. The agencies will work to incorporate the plan into their respective budgets and to achieve economies of scale and increased effectiveness in the use of limited funds by coordinating efforts wherever possible. The plan may also include recommendations about the development of new criteria (e.g., criteria to protect non-aquatic wildlife) by the agencies.

C. State and Tribal Water Quality Standards

The draft MOA contains guidance to regional and field offices regarding section 7 consultations on EPA's approval of new or revised water quality standards. The draft MOA seeks to facilitate early involvement of the Services in the State and Tribal water quality standards development process, since the most effective time for the Services to become involved is before and during the State's or Tribe's development of the standards. Therefore, the draft MOA provides that EPA and the Services will meet to discuss the scope of upcoming triennial reviews by States and Tribes and that the Services will provide input in the standards development process. The draft MOA also provides that, where available information supports a determination that existing standards are not adequate to avoid causing jeopardy to a listed species, EPA will work with the State or Tribe to obtain revisions to the standards in the triennial review process.

One commenter raised the concern that the draft MOA imposed an obligation on States and Tribes to improve the quality of the environment, whereas section 9 of the ESA only prohibits a take of listed species unless an exception has been made. Again, the draft MOA is solely a procedural document that does not impose any obligations on any party, including States and Tribes. Moreover, the CWA charges EPA, States and Tribes with protecting the chemical, physical and biological integrity of the Nation's waters. We believe our statutory responsibilities are carried out by ensuring that water is of sufficient quality to ensure the protection of endangered and threatened species.

Other commenters raised the concern that the draft MOA would elevate endangered species considerations above all other considerations under the CWA, and undermine the flexibility currently exercised by States and Tribes to establish use designations that take into account socioeconomic factors or otherwise do not necessarily maximize protection of fish and wildlife. Nothing in the draft MOA, however, modifies any existing statutory and regulatory authorities of EPA, the Services or States and Tribes, including the flexibility available to States and Tribes in establishing water quality standards. The draft MOA is solely an internal procedural document about how CWA and ESA requirements interrelate. We do not share the assumption that expressly integrating endangered species concerns into the water quality standards program would lead to irreconcilable conflicts.

D. State and Tribal Permitting Programs

The draft MOA establishes a framework for EPA and the Services to coordinate with regard to permits issued by States or Tribes under section 402 of the CWA. All State and Tribal programs must meet the same minimum requirements under section 402 of the CWA and EPA regulations, and EPA's authorities for overseeing State and Tribal permitting decisions are uniform in all States. *See* 40 CFR part 123, subpart C. To date, EPA and the Services have developed coordination procedures on a case-by-case basis, and these procedures have been fundamentally similar. Given this similarity, we believe that the procedural framework for interagency coordination regarding State and Tribal programs can and should be established on a national basis. Doing so ensures a consistent, appropriate level of protection for listed species, and avoids the need to continue developing procedures on a case-by-case basis. These procedures are sufficiently flexible to address the full range of circumstances that may arise in any particular permit proceeding.

Under these procedures, EPA would ensure that States and Tribes, in accordance with existing CWA requirements, provide copies of permits to the Services for their review. The

EPA and the Services would work with the State or Tribe where EPA or the Services believed a permit is likely to adversely affect a listed species. EPA would coordinate with the Services and State or Tribe to ensure that the permit complies with all applicable CWA requirements. If the issue still cannot be resolved, the draft MOA states that EPA may object to the State or Tribal permit if EPA determines the permit is likely to adversely affect listed species and the permit is subject to objection under section 402(d) of the CWA as being ''outside the guidelines and requirements'' of that Act. If EPA determines, based on analysis by EPA or the Services, that the permit is likely to jeopardize the continued existence of the listed species, EPA will use the full extent of its CWA authority to object to the permit.

EPA and the Services also plan to conduct a national programmatic consultation on whether the establishment of these procedures is sufficient to avoid the likely jeopardy of listed species due to discharges authorized under State and Tribal NPDES programs. Because these procedures can be applied to any State or Tribe that administers the NPDES program, we believe that a single programmatic consultation would be the most efficient means of ensuring that programs throughout the country are protecting endangered and threatened species in accordance with the requirements of the CWA. We anticipate that the consultation will cover existing State and Tribal NPDES programs and any program submitted after issuance of the biological opinion where the agreed-upon coordination procedures will be followed.

EPA and the Services believe that this approach ensures that any issues regarding listed species will be adequately addressed. We recognize that the Congress intended administration of the NPDES permitting program to be primarily the responsibility of States and Tribes, with EPA playing only an oversight role in most instances. EPA and the Services do not believe that the procedures contained in the draft MOA would upset the CWA's carefully crafted balance between Federal and State authorities. We anticipate that the need for EPA objections to State and Tribal permits will continue to be rare. Where EPA believes a permit is not in accordance with CWA requirements and impacts to listed species are of serious concern, however, EPA is committed to using its CWA authorities to ensure that listed species are protected.

One comment on the July 1997 draft of the MOA asserted that the ''coordination'' called for in the draft MOA is, in fact, informal consultation under section 7 of the ESA, with the possibility of formal consultation to follow. ''Consultation'' under section 7(a)(2) of the Endangered Species Act (ESA) is a process that imposes certain procedural obligations on the Federal agency consulting with the Services (*see* 50 CFR part 402). The MOA does not adopt those procedures, but instead directs EPA and the Services to share information and recommendations with each other and States and Tribes. The draft MOA does not impose any obligations, procedural or otherwise, on any State or Tribe, which would continue only to be required to meet their procedural and substantive obligations under the CWA. The draft MOA uses the word ''coordination'' precisely to make clear that the section 7 consultation process is not being applied to State or Tribal-issued NPDES permits.

One court case, *American Forest and Paper Association* v. *EPA*, 137 F.3d 291 (5th Cir. 1998) has addressed the scope of EPA's authority to ensure protection of listed species in its approval and oversight of a State NPDES program. In that case, EPA, the Services and the State of Louisiana entered into Memoranda of Agreement describing the coordination that would occur with regard to State NPDES permits. The Court found, contrary to EPA's views, that EPA had required the State of Louisiana to consult with the Services before issuing permits as a condition for program approval. The Court held that EPA is not authorized to add any requirements for a State permitting program beyond the nine specific criteria enumerated in section 402(b) of the CWA, and invalidated the endangered species coordination procedures.

While EPA believes that this case was wrongly decided, the procedures in the draft MOA are within EPA's authorities under the *AFPA* Court's reading of the CWA. First, unlike the Louisiana procedures, the draft MOA is an agreement solely among Federal agencies. It would impose no obligations or commitments on any State or Tribe administering the NPDES program, nor would it place any conditions on EPA's approval of NPDES programs, which would continue to be based on the criteria enumerated in section 402(b) of the CWA. Moreover, unlike some of the procedures agreed to in Louisiana, the draft MOA makes clear that EPA would retain the ultimate authority for determining whether to object to a State or Tribal permit, and that EPA would do so pursuant to its authorities under the CWA.

Dated: December 9, 1998.

J. Charles Fox,

Assistant Administrator for Water, U.S. Environmental Protection Agency.

Dated: January 7, 1999.

Donald J. Barry,

Assistant Secretary for Fish, Wildlife and Parks, U.S. Department of the Interior.

Dated: December 15, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

The text of the draft Memorandum of Agreement follows:

Draft Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and the Endangered Species Act.

Table of Contents

I. Purpose
II. Goals and Objectives
III. Guiding Principles
IV. Authorities
A. Fish and Wildlife Service and National Marine Fisheries Service Authorities
B. Environmental Protection Agency Authorities
C. Reservation of Authorities
V. Provisions and Understandings
A. Procedures to Facilitate Interagency Cooperation
1. Local/Regional Coordinating Teams
2. Interagency Elevation Process
3. Oversight Panel
4. Sub-Agreements
5. Guidance/Training
B. Summary—Section 7 Consultation Process
1. Scope
2. Data and Information Requirements
3. Information Sharing
4. Effects of an Action
5. Biological Evaluation
6. Timeliness of Actions
7. EPA Responsibility at the Conclusion of Section 7 Consultation
8. Reinitiation of Formal Consultation
C. Proposed Species and Proposed Critical Habitat
D. Recovery Program
1. Conservation Recommendations to Assist Recovery
2. Recovery Planning
3. Recovery Implementation
E. Candidate Conservation Activities
VI. National Level Activities to Ensure Protection of Species
A. National Rule-making
B. Development of New Water Quality Criteria Methodological Guidelines
C. National Consultation on CWA Section 304(a) Aquatic Life Criteria
1. Overview
2. Procedures for Consultation
VII. Joint National Research and Data Gathering Plan and Priorities

A. Existing and New Water Quality Criteria
B. Work Group Report to Agreement Signatories
C. National Research and Data Gathering Plan
D. Consultation on State and Tribal Water Quality Standards
VIII. Consultation on Water Quality Standards Actions
A. Development of New or Revised State or Tribal Water Quality Standards
1. Scoping of Issues to be Considered During the Triennial Review Process
2. Development of State or Tribal Standards
3. Adoption and Submittal of State or Tribal Standards
4. EPA Develops Biological Evaluation
5. EPA Determination of ''No Effect'' or ''May Affect''
6. Services' Review of ''Not Likely to Adversely Affect'' Determination
7. Formal Consultation
8. EPA Action on State or Tribal Standards
B. Existing Water Quality Standards
C. Consultation on EPA Promulgation of State or Tribal Water Quality Standards
IX. Permitting Program Activities
A. Programmatic Section 7 Consultation
B. Coordination Procedures Regarding Issuance of State or Tribal Permits
C. Issuance of EPA Permits
D. Watershed Planning
X. Support in Administrative and Judicial Proceedings
XI. Revisions to Agreement
XII. Reservation of Agency Positions
XIII. Obligations of Funds, Commitment of Resources
XIV. Nature of Agreement
XV. Effective Date; Termination
XVI. Signatories

I. Purpose

This Agreement is designed (1) to improve coordination of the agencies' compliance with the Endangered Species Act (ESA) for actions authorized, funded, or carried out by EPA under sections 303(c) and 402 of the Clean Water Act (CWA), and (2) to provide clear and efficient mechanisms for improved interagency cooperation, thereby enhancing protection and promoting the recovery of threatened and endangered species and their supporting ecosystems, and reducing the need for future listing actions under the ESA. Throughout this Agreement, ''Service'' or ''Services'' shall refer to the Fish and Wildlife Service (FWS) and/or National Marine Fisheries Service (NMFS), as appropriate. In this Agreement ''States'' refers to States, Territories and Commonwealths that qualify as States for the programs covered by this Agreement.

II. Goals and Objectives

This Agreement is intended to accomplish the following:

—Use a team approach at the national, regional, and field office levels to restore and protect watersheds and ecosystems to achieve the goals of the ESA and CWA;
—Improve the framework for meeting responsibilities under section 7 of the ESA;
—Enhance the existing process in place to protect and recover Federally-listed and proposed species and the ecosystems on which they depend;
—Improve methods for coordinating compliance with sections 303(c) and 402 of the CWA and section 7 of the ESA;
—Streamline the Federal agency coordination process to minimize the regulatory burden, workload, and paperwork for all involved parties;
—Ensure a nationally consistent coordination process that allows flexibility to deal with site-specific issues;
—Develop mechanisms for EPA participation in the development and implementation of recovery plans for Federally-listed species threatened by physical, chemical or biological impairment of waters of the United States;
—Provide mechanisms for the Services' participation in development of water quality criteria and standards recognizing any unique requirements for listed and proposed species and designated and proposed critical habitat;
—Identify a collaborative mechanism for planning and prioritizing future CWA/ESA actions and resolving any potential conflicts or disagreements through a structured time-sensitive process at the lowest possible level within the agencies.

III. Guiding Principles

The ESA sets forth the goal of protecting and recovering threatened and endangered species and the ecosystems upon which they depend. It places responsibility on all Federal agencies, including EPA and the Services, to meet that goal. The Clean Water Act (CWA) sets forth a goal of restoring and maintaining the chemical, physical and biological integrity of the Nation's waters. Sections 303(c) and 402 of the CWA (as well as other provisions) are directed toward achieving this goal.

EPA and the Services find the goals of the CWA and ESA compatible and complementary, and are entering into this Agreement to form a partnership to enhance the realization of the goals of both Acts. This partnership will also seek to efficiently and effectively fulfill the requirements of section 7 of the ESA.

The primary principle underlying this Agreement is cooperative partnership. The ESA requires the involvement of all Federal agencies in the protection and recovery of our Nation's unique biological resources. As a result of this Agreement, the signatory agencies will better coordinate their efforts and will make it easier for the regulated community and other partners to work with them in achieving the purposes of the CWA and ESA.

While States and Tribes play a critical role in the administration and implementation of sections 303(c) and 402 of the CWA, they are not signatories to this agreement, which only applies to Federal actions subject to section 7(a)(2) of the ESA. The Services and EPA remain committed to working with the States and Tribes collaboratively at all levels to ensure that both the CWA and ESA are implemented in a manner that fulfills the goals of both statutes in a timely and efficient manner.

IV. Authorities

A. Fish and Wildlife Service and National Marine Fisheries Service Authorities

This Agreement relates to the following authorities of the Services:

—Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

B. Environmental Protection Agency Authorities

This Agreement relates to the following authorities of EPA:

—Sections 303(c), 304(a) and 402 of the Clean Water Act, as amended, 33 U.S.C. 1251–1387.

C. Reservation of Authorities

This Agreement does not modify existing Agency authorities by reducing, expanding, or transferring any of the statutory or regulatory authorities and responsibilities of any of the signatory agencies.

V. Provisions and Understandings

A. Procedures to Facilitate Interagency Cooperation

EPA and the Services intend to work cooperatively to achieve their mutually shared objectives of protecting the quality of waters of the United States and species that depend on those waters. To facilitate collaboration among agency field and regional staff for planning and prioritizing future CWA/ESA actions and resolving any potential conflicts or disagreements through a structured, time-sensitive process at the lowest possible level, the agencies will follow the coordination and elevation procedures described below.

1. Local/Regional Coordinating Teams

The regional offices of EPA and the Services will establish coordinating teams, including representation from field offices, to foster early and recurring collaboration on various activities related to the CWA and the ESA. These teams will, as appropriate:

a. Meet at least annually;

b. Identify upcoming workload requirements. This dialogue will allow signatory agencies to become aware of and provide input on upcoming activities such as annual work plans, triennial water quality standards reviews, recovery plan preparation, proposed State or Tribal program assumptions, proposed listings, or proposed habitat conservation planning efforts;

c. Identify high priority areas of concern and opportunities for cooperation.

d. Assist one another in determining which categories of NPDES permits should be identified for review by EPA and the Services for endangered species concerns, including waters of high concern in each State that should be priorities for EPA oversight;

e. Identify current and future research needs and determine which of these research needs are appropriate to convey to the research coordinating committee and which are appropriate for local or regional accomplishment;

f. Identify training needs; and

g. Identify ways to reduce the impacts of proposed agency actions on endangered and threatened species.

Each of these local/regional coordinating teams should develop mechanisms to facilitate streamlining of various work activities as appropriate to the local circumstances. Such streamlining should facilitate early exchange of information, early prioritization of workload, and early identification of potential problems. Each local group should develop mechanisms to work with States and Tribes, as appropriate, concerning such things as candidate conservation agreements, recovery planning, triennial reviews, and annual CWA priorities. Local/regional coordinating teams may develop mechanisms to involve other Federal agencies such as the U.S. Army Corps of Engineers, the Forest Service, the Federal Energy Regulatory Commission, and non-Federal stakeholders whose actions and interests may impact the CWA/ESA issues.

2. Interagency Elevation Process

The following procedures shall be utilized to elevate any conflict or disagreement between the agencies. While decisions by all levels, including decisions to elevate, will be made by consensus to the greatest extent practicable, any one agency can initiate the elevation process. Each agency retains its statutory and regulatory authority to make final decisions within its jurisdiction. Elevation should be initiated so that all applicable deadlines may be met, taking into account subsequent levels of review. In any elevation, the agencies will jointly prepare an elevation document that will contain a joint statement of facts and succinctly state each agency's position and recommendations for resolution. If the agencies are aware of a dispute, they will defer taking final action, where consistent with applicable legal deadlines, to allow the issue to be resolved through the elevation process.

The time periods specified below are intended to facilitate expeditious resolution of the issues. These time periods should be shortened when necessary for any agency to meet applicable legal deadlines. The time periods begin to run on the date that the elevating agency or agencies notify the next level of the elevation request. All prescribed time frames in the elevation process can be waived by the mutual consent of the participants at any level when the participants believe that progress is being made and that resolution at that level is still possible.

a. *Level 1:* The Level 1 review team consists of staff personnel from EPA and FWS and/or NMFS. The overall goal is to design actions to minimize adverse impacts to listed species by jointly working on biological evaluations, concurrences and biological opinions for such actions. General functions include those specified in section V.A.1.

Any contentious issues will be discussed with an attempt to resolve them without elevation. If disputes cannot be resolved among the Level 1 team members, the issue will be raised with the Level 2 review team as soon as possible.

b. *Level 2:* The Level 2 review team consists of field unit line officers or staff supervisors, (i.e., for NMFS, branch/division chiefs; for EPA, branch chiefs; and for FWS, field office supervisors). General functions are to oversee and coordinate activities, including those specified in section V.A.1.

The Level 2 team will make their best efforts to resolve any issues elevated to them. Where resolution is not possible at this level, the Level 2 team will elevate the issue to the Level 3 team no later than 14 days after notification by the Level 1 team, or sooner as agreed upon or mandatory deadlines require.

c. *Level 3:* The Level 3 review team consists of all regional executives (i.e., for NMFS and EPA, regional administrators; and for FWS, regional directors). Their function is to resolve any elevated disputes within 21 days of notification of elevation by Level 2 teams, or sooner as necessary to meet mandatory deadlines, and serve as key advisors on policy and process. If issues are not resolved by the Level 3 team, the issue will be elevated for Headquarters Review.

d. *Headquarters Review:* This review consists of the Director of NMFS (Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, NOAA), the Director of FWS, and the Deputy Assistant Administrator of Water at EPA or their representatives who shall attempt to resolve disputes elevated by the regional executives. Agency administrators shall attempt to issue a decision resolving the issue within 21 days after elevation. Decisions will be binding upon the agencies' field staffs. Agency administrators or their designees shall make every attempt to resolve the dispute before elevation, where necessary, to the Assistant Secretaries of the Departments of Interior/Commerce and the Assistant Administrator of EPA. The responsible Assistant Secretary(s) and Assistant Administrator shall resolve any issues within 21 days of elevation. At this resolution level, the decision must rest with the agency exercising the statutory or regulatory authority in question.

3. Oversight Panel

The Oversight Panel consists of regional and headquarters personnel from each individual agency. The panel provides oversight and coordination for all aspects of this agreement. Its functions include, but are not limited to:

(1) Maintaining and updating process guidance;

(2) Addressing issues about process implementation;

(3) Incorporating/identifying improvements and revisions into the process;

(4) Convening interagency scientific/technical reviews, as appropriate;

(5) Facilitating reaching consensus on particular issues at any level upon requests by personnel at that level; and

(6) Reviewing and evaluating, at least on an annual basis, the Agreement and its implementation by the three agencies.

4. Sub-Agreements

Regional and field level Federal sub-agreements further implementing this Agreement may be executed by

appropriate EPA/Services programs. Any such sub-agreements which clarify roles, procedures, and responsibilities are encouraged. This includes any efforts to protect species and water quality on a watershed or ecosystem basis. Sub-agreements must be consistent with this Agreement and must be approved by Regional offices and reviewed by Headquarters.

5. Guidance/Training

EPA and the Services will hold joint training sessions with regional and field staff to facilitate staff's understanding and implementation of the Agreement, with a goal of providing such training to all relevant personnel within eighteen months. The agencies may issue guidance individually or jointly to assist in carrying out this Agreement.

B. Summary—Section 7 Consultation Process

1. Scope

The regulations that interpret and implement section 7 of the ESA establish a framework for efficient and consistent consultation between Federal agencies regarding listed species and critical habitat.

2. Data and Information Requirements

EPA agrees to include in any biological assessment or evaluation the best available scientific and commercial information. EPA and the Services will exercise their scientific judgment to determine the relevance and validity of the available scientific and commercial information. The Level 1 review teams will provide a venue for collaborating among the agencies on these issues.

3. Information Sharing

The Services will initially provide EPA with a consolidated list of Federally-listed and proposed species and designated and proposed critical habitat by State. The Services agree to provide to EPA any additions of species or other relevant information as proposed or final rule-making occurs. EPA will provide and update copies of Federal section 304(a) water quality criteria and applicable State and Tribal water quality standards to the Services.

EPA and the Services will share information and analyses used to make decisions under this Agreement when requested, including analyses supporting biological evaluations and biological opinions. The Services will provide to EPA copies of all draft jeopardy biological opinions and draft no jeopardy biological opinions with incidental take statements, unless EPA specifically requests that a draft not be provided.

4. Effects of an Action

All ''effects of the action'' and ''cumulative effects'' will be considered in the Service's biological opinions (50 CFR 402.14(c), 402.14(g) (3) and (4), and 402.14(h)). The ''effects of an action'' include all direct as well as indirect effects that are reasonably certain to occur, even at a later time. Effects of an action include effects of interrelated and interdependent actions associated with the proposed action in question. Cumulative effects include future State or Tribal and private actions that are reasonably certain to occur in the action area that do not involve Federal activities. Water quality criteria and State or Tribal water quality standards establish levels of pollutants from all sources, and so would account for all such effects insofar as water quality is concerned. Since NPDES permits are established to achieve water quality standards, they will account for point source effects insofar as water quality is concerned.

5. Biological Evaluation

Although section 7(c) of the ESA refers to a biological assessment as an element of the consultation process, a biological assessment is required only in the case of a major construction activity, as defined at 50 CFR 402.02. The purpose of a biological assessment is to enable an agency to determine whether a proposed action is likely to adversely affect Federally-listed species and designated critical habitat. A biological assessment also assists an agency in complying with potential ESA ''conference'' requirements for proposed species and critical habitat under 50 CFR 402.10. For EPA actions that are not major construction activities, an alternative document that may be used for decision-making is a biological evaluation. While a biological evaluation is not required by regulation, EPA will develop such an evaluation where the Agency determines it would be appropriate for determining whether listed species may be affected by the proposed action and for assisting consultation with the Services. The Services recognize that the content and format of the biological evaluation are to be determined by EPA.

A biological evaluation is an analysis of the potential effects of a proposed action on listed species or their critical habitat based upon the best available scientific or commercial information. The biological evaluation will vary in extent and rigor according to the certainty and severity of an action's deleterious effect. For example, a biological evaluation may be very brief if the expected result of an action is straightforward, is beneficial, or is of little or no consequence. If, on the other hand, the potential effects are severe, large in scope, complex or uncertain in terms of outcome, the analysis would need to be more extensive and rigorous.

A biological evaluation can be used for decision-making prior to and throughout section 7 consultation and for a possible conference on proposed species or critical habitat. The evaluation can be used to make a ''may effect'' or ''no effect'' determination, or to support a judgment that the proposed action is or is not likely to adversely affect listed species or their critical habitat.

If early or formal consultation is initiated, a biological evaluation or biological assessment can be used by the appropriate Service in rendering a preliminary or final biological opinion.

6. Timeliness of Actions

In informal and formal consultation, EPA and the Services agree to adhere to time frames set forth in 50 CFR part 402 and supplemental guidance provided in this Agreement, in order to enable EPA to meet statutory and regulatory deadlines under the CWA. EPA will strive to provide advance notice to the Services concerning anticipated consultations, to provide thorough biological evaluations, to comment promptly on draft opinions and to provide, where appropriate, additional available information requested by the Services.

If during informal consultation EPA determines that the action is not likely to adversely affect listed species or critical habitat, then EPA will notify the Service in writing. The Service will respond in writing within 30 days of receipt of such a determination, unless extended by mutual agreement. The response will state whether the Service concurs or does not concur with EPA's determination. If the Service does not concur, it will provide a written explanation that includes the species and/or habitat of concern, the perceived adverse effects, supporting information, and a basic rationale.

The Services may request that EPA initiate consultation on a Federal action. The Services do not have the authority, however, to require the initiation of consultation. The Services' written explanation of the request shall include the species and/or critical habitat of concern, manner in which there may be an effect, supporting information, and a basic rationale.

The Services will strive to issue biological opinions within 90 days of an initiation of formal consultation unless

the Services and EPA agree to extend the consultation period. The timing of activities during consultation may be further expedited as necessary taking into account legal deadlines for EPA action and the agencies' programmatic needs. EPA, where appropriate, will enter into early consultation with the Services in order to ensure that EPA meets its statutory CWA deadlines for decision-making. In addition, EPA and the Services agree to make every effort to provide prompt and responsive communications to ensure States, Tribes, and permit applicants do not suffer undue procedural delays.

7. EPA Responsibility at the Conclusion of Section 7 Consultation

Following issuance of a biological opinion, EPA will determine whether and in what manner to proceed with the action in light of its CWA and section 7 obligations. If a jeopardy opinion is issued, EPA will notify the Services of its final decision on the action.

8. Reinitiation of Formal Consultation

The section 7 regulations define conditions under which EPA or the Services will request reinitiation of formal consultation at 50 CFR 402.16. The Services and EPA will work cooperatively to evaluate any new information to determine if reinitiation is necessary.

C. Proposed Species and Proposed Critical Habitat

The Services will identify proposed species and proposed critical habitat to EPA Regional offices. EPA will evaluate any CWA activities it authorizes, funds, or carries out that are subject to section 7 and determine if they are likely to jeopardize proposed species or result in the destruction or adverse modification of proposed critical habitat. If so, EPA will confer with the Services using the procedures under 50 CFR 402.10. The Services may also initiate a request for conference on a particular action.

D. Recovery Program

Section 7(a)(1) of the ESA provides that Federal agencies shall utilize their authorities in furtherance of the purposes of the ESA by carrying out programs for the conservation and recovery of threatened and endangered species. Section 7 consultation and the recovery planning and implementation process are two primary mechanisms that EPA can use as guides to identify actions that EPA or the Services believe are needed to protect and recover Federally-listed species.

1. Conservation Recommendations to Assist Recovery

The section 7 consultation process is primarily intended to ensure that EPA's actions are not likely to jeopardize the continued existence of Federally-listed species or adversely modify their critical habitat. However, biological opinions may contain discretionary conservation recommendations to promote the recovery of the subject species. (50 CFR 402.02 defines conservation recommendations as suggestions of the Services regarding the development of information or discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat.) Implementation of these conservation recommendations would help conserve and recover listed species.

Frequent and informal contact between the Services and EPA is encouraged during all stages in the development of conservation recommendations. During section 7 consultation, the Services will work closely with EPA to identify conservation recommendations and evaluate the feasibility of their implementation.

2. Recovery Planning

Recovery plans are developed in three stages: (a) Technical drafts that are intended to provide agencies an opportunity to assist the Services in developing biologically sound recovery plans; (b) Agency drafts which outline the various tasks the Services feel may be within the jurisdiction of other agencies and are circulated for public comment (the Technical and Agency Draft are sometimes combined into one document to save time); and (c) the final plan.

The Services will invite EPA to serve as members of Recovery Teams where water quality is a concern or EPA has particular expertise, provide to EPA copies of all draft recovery plans that contain water quality related recovery tasks, and actively solicit EPA's involvement during all phases of recovery plan development. The Services will also solicit State or Tribal involvement, where appropriate. EPA will provide the Services with comments related to water quality threats, recovery issues, and will suggest areas where plans could be modified to include specific actions to support the species recovery effort.

3. Recovery Implementation

EPA and the Services will hold recovery planning/implementation discussions or meetings, on at least an annual basis. The members of this group and the geographic area covered by this group will vary among Regions, depending on the geographic range and number of species impacted by water quality. The meetings could be organized on a watershed or ecosystem basis and involve field and/or Regional personnel. These groups will discuss current and upcoming water quality/listed species related activities, and provide input for prioritizing watersheds (e.g., the number of listed species, the seriousness of threats, and the opportunities for conservation/recovery success) for potential future coordinated activities.

E. Candidate Conservation Activities

The Services and EPA will develop watershed and ecosystem based initiatives to identify and remove those conditions that may lead to future listings. Efforts should focus on candidate species and other species of concern and their associated ecosystems. The local/regional coordinating teams will identify specific focus areas.

VI. National Level Activities to Ensure Protection of Species

EPA will take the following steps at the national level to ensure that State and Tribal permitting programs and water quality standards provide protection for endangered and threatened species.

A. National Rule-making

EPA will propose amendments to its national water quality standards regulations (40 CFR part 131) to include provisions to ensure the protection of endangered and threatened species within 24 months following the execution of this Agreement. EPA will propose to require that water quality not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat, including a prohibition of mixing zones or variances that would be likely to cause jeopardy, and a requirement that States or Tribes adopt site-specific water quality criteria (tailored to the geographic range of the species of concern) where determined to be necessary to avoid a likelihood of jeopardy.

After consideration of public comment, EPA will adopt appropriate provisions in a final regulation.

B. Development of New Water Quality Criteria Methodological Guidelines

EPA will continue to invite the Services to be represented on EPA's Aquatic Life Criteria Guidelines Committee. EPA has charged this committee with revising and updating EPA's methodological guidelines for issuance of new 304(a) water quality criteria guidance values. As members of the committee, the Services and EPA will ensure that these methodological guidelines take into account the need to protect Federally-listed species. The Services will assist EPA to (1) develop and have peer reviewed a list of surrogate and target endangered and threatened species that could be used in pollutant toxicity testing and (2) assist in the development of biocriteria for streams, rivers, lakes, wetlands, estuaries or marine waters that contain endangered and threatened species or designated critical habitat.

These methodological guidelines are subject to peer review, public notice and comment prior to being finalized. Prior to the public comment period, the Directors will provide the Services' views regarding the guidelines so that the public will have the benefit of the Services' views during the comment period. The Services will also be invited to participate in the peer review process for the development of new criteria values under section 304(a), and will designate technical experts to provide the Services' views during the peer review process.

C. National Consultation on CWA Section 304(a) Aquatic Life Criteria

1. Overview

Under section 304(a) of the CWA, EPA from time to time publishes water quality criteria that serve as scientific guidance to be used by States or Tribes in establishing and revising water quality standards. These criteria are not enforceable requirements, but are recommended criteria levels that States or Tribes may adopt as part of their legally enforceable water quality standards. States or Tribes may, however, adopt other scientifically defensible criteria in lieu of EPA's recommended criteria (see 40 CFR 131.11(b)). EPA has to date published criteria for the protection of aquatic life for 45 pollutants. EPA has developed an interim-final ''Water Quality Criteria and Standards Plan'' (EPA, June 1998) to guide the development and implementation of new or modified 304(a) criteria in the coming years.

The objective of EPA's criteria program is to provide scientific information to States and Tribes that will best facilitate the overall protection of the aquatic ecosystem. A better understanding of the effects of water pollution on endangered and threatened species will help achieve this objective. Therefore, EPA and the Services will conduct a section 7 consultation on the aquatic life criteria to assess the effect of the criteria on listed species and designated critical habitat. EPA and the Services will also conduct a conference regarding species proposed for listing and proposed designated critical habitat. EPA will consider the results of this consultation as it implements and refines its criteria program, including decisions regarding the relative priorities of revising existing criteria and developing new criteria.

EPA and the Services have gained considerable experience in evaluating the potential effects on endangered and threatened species of pollutants for which EPA has published recommended aquatic life criteria under section 304(a) of the CWA. For example, the Services have issued biological opinions as a result of section 7 consultations on aquatic life criteria approved by EPA in water quality standards adopted by the States of New Jersey, Alabama, and Arizona, and promulgated by EPA for the Great Lakes Basin. EPA is currently conducting consultation with the Services regarding aquatic life criteria being promulgated by EPA for toxic pollutants for certain waters in California. These opinions have evaluated (or are evaluating) the effects of criteria pollutants on 87 aquatic species, which constitute approximately 42% of listed aquatic species in the country. Grouped by taxonomic family, these consultations have evaluated the effects of criteria pollutants on one or more species in approximately 65% of those families to which listed aquatic species belong. In addition to these comprehensive formal consultations, EPA and the Services have also conducted informal consultations on State water quality standards approval actions which have covered water quality criteria contained in the standards.

EPA and the Services recognize, however, that conducting consultations on a State-by-State basis is not the most efficient approach to evaluating the effects of water pollution on endangered and threatened species throughout the country. A national consultation will ensure a consistent approach to evaluating the effects of pollutants on species and identifying measures that may be needed to better protect them. A national consultation will also ensure better consideration of effects on species whose ranges cross State boundaries.

2. Procedures for Consultation

The consultation will be conducted in accordance with the procedures in 50 CFR part 402 and the guidance contained in the Services' Consultation Handbook. EPA and the Services also anticipate that the consultation will follow the basic approach described below. The agencies will endeavor to streamline their processes to complete this consultation within eighteen months.

EPA and the Services anticipate that the national consultation will focus on aquatic and aquatic-dependent species. The consultation will be conducted on a national basis, and therefore, will not be waterbody-specific. In addition, given the numbers of species involved in the consultation, the effects on species will be evaluated to the maximum extent possible based on groupings of species believed to be affected in a similar manner.

The agencies will take a collaborative approach to evaluating the effects of the criteria pollutants on listed species, and joint teams will be established to conduct the consultation. With input from the Services, EPA will prepare a biological evaluation based on the best scientific and commercial data available, and will provide a rationale for any findings regarding the effects of the criteria pollutants on listed species. EPA will make ''effects determinations'' based on the direct and indirect effects of the 45 pollutants on listed species. EPA will evaluate the effects of pollutants on species in the water column based upon the available toxicological data, principally the data assembled in EPA's criteria development documents as well any more recent toxicological information. EPA will consider other exposure scenarios to aquatic and aquatic-dependent species and provide available information to the Services.

The Services will work collaboratively with EPA in developing their biological opinion, including the development of any reasonable and prudent measures or alternatives to minimize anticipated incidental take or to avoid likely jeopardy to listed species or adverse modification or destruction of designated critical habitat. Any reasonable and prudent measures or alternatives that identify research needs will be mutually developed and will reflect priorities established by the national research and data gathering plan. Should the opinion call for revisions to existing criteria or issuance of new criteria, the opinion will recognize EPA's practice of subjecting new or revised criteria to public notice

and comment and external peer review prior to being finalized. EPA believes that the existing criteria provide a significant degree of protection for the aquatic ecosystem (including listed species). The agencies agree that, until any revisions of criteria are completed, the agencies will, to the maximum extent practicable, maintain the status quo by continuing to implement such criteria in water quality standards programs prior to revisions to the criteria.

Because the effects of the criteria pollutants on certain listed species have already been evaluated in biological opinions issued by the Services, the agencies will rely upon the scientific information and conclusions in those consultations to the maximum extent possible. Such prior opinions will remain in effect unless consultation is reinitiated.

The national consultation will provide section 7 coverage for any water quality criteria included in State or Tribal water quality standards approved, or Federal water quality standards promulgated, by EPA that are identical to or more stringent than the recommended section 304(a) criteria. Therefore, separate consultation on such criteria will not be necessary, subject to requirements related to reinitiation of consultation under 50 CFR 402.16. If, during the national consultation, EPA proposes to take an action approving or promulgating numeric standards that are identical to or more stringent than the existing 304(a) criteria, such action will be covered by the national consultation. EPA and the Services agree that EPA may proceed with its action pending the conclusion of the national consultation. EPA will ensure that its action does not have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives in the national consultation by stating that EPA's action is subject to revision based on the results of the consultation.

VII. Joint National Research and Data Gathering Plan and Priorities

EPA and the Services will convene a work group of scientific and technical personnel to develop a research and data gathering plan that supports water quality standards protective of species of concern and the ecosystems they inhabit. The goal of the plan is to identify high priority data and information needed to reduce uncertainty concerning the degree to which water quality criteria and permits are protective of endangered or threatened species. The plan also recognizes the agencies' joint interest in, and responsibility for, funding and conducting research related to endangered and threatened species. The information gathered as a result of this joint plan and the national consultation will be used by EPA in the revision or development of national 304(a) water quality criteria, in review of State and Tribal water quality standards, and the evaluation of permits. Similarly, the Services will use this information in assessing threats and minimizing adverse effects to listed species. The agencies agree that the plan should be completed, if possible, within eighteen months of the signing of this Agreement.

The work group will primarily be concerned with three tasks: (1) development of the research plan, including the components identified below; (2) evaluating and prioritizing research or data gathering needs identified in consultations on EPA's review of specific State and Tribal water quality standards; and (3) overseeing and coordinating the implementation of the national research/data gathering plan.

A. Existing and New Water Quality Criteria

The national research work group will identify those CWA section 304(a) aquatic life criteria that are the highest priority candidates for additional research based on issues identified in consultations on State and Tribal water quality standards and the national consultation on the aquatic life 304(a) criteria published by EPA under section 304(a) of the CWA.

The work group will also identify the highest priority areas for the development of new national 304(a) water quality criteria to protect listed species. The work group will take into account new criteria development needs identified in consultations on State and Tribal water quality standards including, in particular, the priority to be given to the development of wildlife criteria for areas where such criteria have not been developed (i.e., outside the Great Lakes Basin).

B. Work Group Report to Agreement Signatories

Within one year of signing this Agreement, the work group will submit a comprehensive report to the signatories of this Agreement (or their successors) that (1) summarizes the range of research options considered by the work group; (2) makes recommendations regarding priority research and data gathering undertakings for existing and new water quality criteria; (3) describes the recommended additional research; (4) estimates the likely cost of the research; (5) evaluates available funding for completing the research; and (6) establishes a specific time frame for completing the research and data gathering.

C. National Research and Data Gathering Plan

After taking into account the recommendations of the work group, the signatories of this Agreement (or their successors) will adopt a national research and data gathering plan within eighteen months of the signing of this Agreement. The plan will identify near-term (1–5 years) priorities reflecting the highest priorities identified by the agencies that can be accomplished with available and anticipated funding sources. The plan will also identify longer term (5–10 years) priorities. The agencies will work to incorporate the plan into their respective budgets, and to achieve economies of scale and increased effectiveness in the use of limited funds by coordinating efforts wherever possible. The agencies will also work to coordinate the plan with the White House-sponsored Committee on the Environment and Natural Resources.

D. Consultation on State and Tribal Water Quality Standards

On an ongoing basis, the work group will provide expertise and assistance to the field/regional offices regarding research/data gathering issues raised in consultations on State and Tribal water quality standards. Where such consultations identify significant research/data gathering priorities, those priorities will be forwarded for evaluation by the work group. With input from the regional/field offices, the work group will determine the priority of such research and data gathering in relation to other needs contained in the national plan. This process will enable the agencies to rationally allocate their resources as new research/data gathering needs arise.

VIII. Consultation on Water Quality Standards Actions

A. Development of New or Revised State or Tribal Water Quality Standards

EPA will communicate and, where required under section 7 of the ESA, consult with the Services on new or revised State or Tribal water quality standards and implementing procedures that are subject to EPA review and approval under section 303(c) of the CWA.

If a State or Tribe requests, or upon mutual agreement, EPA may, by

notifying the appropriate Service(s) in writing, designate a State or Tribe to serve as a non-Federal representative to conduct informal consultation in accordance with 50 CFR 402.08.

1. Scoping of Issues To Be Considered During the Triennial Review Process

Section 303(c) of the CWA requires States to adopt and revise standards at least on a triennial basis. The Services and EPA recognize that to accomplish timely implementation of standards that may affect Federally-listed species and designated critical habitat, early involvement and technical assistance by the Services is needed. In an effort to facilitate collaboration and the consultation process, EPA regional offices will provide the Services annually with a list of all upcoming scheduled triennial reviews for the next 5 year period.

The Services will participate in a meeting with EPA and the State or Tribe to discuss the extent of an upcoming review. EPA will take the lead to schedule the meeting near the start of the triennial review process.

2. Development of State or Tribal Standards

EPA will seek the technical assistance and comments of the Services during a State's or Tribe's development of water quality standards and related policies. The Services will provide the States or Tribes and EPA with information on Federally-listed species, proposed species and proposed critical habitat, and designated critical habitat in the State or on Tribal lands. EPA will provide assistance to the Services in obtaining descriptions of pollutants and causes of water quality problems within a watershed or ecosystem. The Services will work cooperatively with the States or Tribes to identify any concerns the Services may have and how to address those concerns. EPA will request the Services to review and comment on draft standards, and to participate in meetings with States or Tribes as appropriate. EPA will indicate which of these requests are of high priority, and the Services will make every effort to be responsive to these requests.

Where appropriate, EPA and the Services will encourage the State or Tribe to adopt special protective designations where listed or proposed threatened or endangered species are present or critical habitat is designated or proposed.

EPA will initiate discussions with the Services if there is a concern that a draft State or Tribal standard or relevant policy may impact Federally-listed species or critical habitat.

3. Adoption and Submittal of State or Tribal Standards

States or Tribes adopt new and revised standards and implementing policies from time to time as well as at the conclusion of the triennial review period.

After the final action adopting the standards, the State or Tribe sends its adopted and effective standards to EPA. Once received, EPA is required by the CWA to approve the standards within 60 days or disapprove them within 90 days. Section 7 consultation is required if EPA determines that its approval of any of the standards may affect listed species or designated critical habitat. The time periods established by the CWA require that EPA and the Services work effectively together to complete any needed consultation on a State's or Tribe's standards quickly. In order to provide enough time for consultation with the Services where the approval may affect endangered or threatened species, EPA will work with the State or Tribe with the goal of providing to the Services a final draft of the new or revised water quality standards 90 days prior to the State's or Tribe's expected submission of the standards to EPA. When needed, EPA will prepare a biological evaluation based on the final draft and, where appropriate, request formal consultation. The Services agree to consult on the final draft, and to accommodate minor revisions in the standards that may occur during the State's or Tribe's adoption process. The Services will make every effort to complete consultation and delivery of a final biological opinion within 90 days, or on a schedule agreed upon with the EPA Regional Office.

4. EPA Develops Biological Evaluation

When needed, EPA will develop a biological evaluation to analyze the potential effect of any new or revised State or Tribe adopted standards that may affect Federally-listed species or critical habitat.

5. EPA Determination of ''No Effect'' or ''May Affect''

EPA will evaluate proposed new or revised standards and use any biological evaluation or other information to determine if the new or revised standards ''may affect'' a listed species or critical habitat. For those standards where EPA determines that there is ''no effect,'' EPA may record the determination for its files and no consultation is required. Although not required by section 7 of the ESA for actions that are not major construction activities as defined by 50 CFR 402.02, EPA will share any biological evaluation, ''no effect'' determination, and supporting documentation used to make a ''no effect'' determination with the Services upon request.

If EPA decides that the new or revised water quality standards ''may affect'' a listed species, then EPA will enter into informal consultation (unless EPA decides to proceed directly to formal consultation) to determine whether the standards are likely to adversely affect Federally-listed species or critical habitat. If EPA determines that the species or critical habitat is not likely to be adversely affected, EPA will request the Service to concur with its finding.

Where EPA finds that a species or critical habitat is likely to be adversely affected, EPA will consider, and the Services may suggest, modifications to the standards(s) or other appropriate actions which would avoid the likelihood of adverse effects to listed species or critical habitat. If the likelihood of adverse effects cannot be avoided during informal consultation, then EPA will initiate formal consultation with the Service or EPA may choose to disapprove the standard. In addition, if EPA finds that a proposed species is likely to be jeopardized or proposed critical habitat adversely modified by EPA approval of a new or revised State or Tribal standard, EPA will confer with the Services under 50 CFR 402.10.

6. Services' Review of ''Not Likely to Adversely Affect'' Determination

Within 30 days after EPA submits a ''not likely to adversely affect'' determination, the Services will provide EPA with a written response on whether they concur with EPA's findings. The Services will provide EPA with one of the three following types of written responses: 1) concurrence with EPA's determination (this would conclude consultation), 2) non-concurrence with EPA's determination and, if the Service cannot identify the specific ways to avoid adverse effects, a request that EPA enter into formal section 7 consultation (see 7 below), or 3) a request that EPA provide further information on their determination. If it is not practicable for EPA to provide further information, the Services will make a decision based on the best available scientific and commercial information.

7. Formal Consultation

Formal consultation on new or revised standards adopted by a State or Tribe will begin on the date the Services and EPA jointly agree that the information provided is sufficient to initiate consultation under 50 CFR

402.14(c). The consultation will be based on the information supplied by EPA in any biological evaluation and other relevant information that is available or which can practicably be obtained during the consultation period (see 50 CFR 402.14 (d) and (f)).

If the Service anticipates that incidental take will occur, the Service's biological opinion will provide an incidental take statement that will normally contain reasonable and prudent measures to minimize such take, and terms and conditions to implement those measures. Reasonable and prudent measures can include actions that involve only minor changes to the proposed action, and reduce the level of take associated with project activities. These measures should minimize the impacts of incidental take to the extent reasonable and prudent. Measures are considered reasonable and prudent when they are consistent with the proposed action's basic design, location, scope, duration, and timing. The test for reasonableness is whether the proposed measure would cause more than a minor change to the proposed action. 50 CFR 402.14(I)(2).

Appropriate minor changes can include, for example, a condition stating that the EPA Regional Office will work with the State or Tribe to obtain revisions to the water quality standards in the next triennial review. Where either of the Services believe that there is a need for the standards to be revised more quickly, the Service should work with EPA and the State or Tribe to determine whether any revisions could be developed more quickly than the next anticipated triennial review. Because reasonable and prudent measures should not exceed the scope of EPA actions, reasonable and prudent measures in a water quality standards consultation should not impose requirements on other CWA programs unless agreed to by both EPA and the Service(s).

The Services may include research or data gathering undertakings as conditions of an incidental take statement contained in a biological opinion where it determines that the way to minimize future incidental take is through research and data gathering. However, to the maximum extent possible, the Services will work with EPA to identify research needs that will be addressed in the National Research and Data Gathering Plan. The Plan identifies high priority data and information needed to reduce the uncertainty inherent in the degree to which water quality criteria would protect listed species. Research and data identified in the Plan has the goal of minimizing any incidental take associated with water quality standards.

Where site specific research or data are needed that are not addressed in the National Plan, the biological opinion will explain how the research or data gathering will minimize such take while not altering the basic design, location, scope, duration, or timing of the action.

Where a regional EPA office finds that it is not practicable to complete the research or data gathering requested in the draft opinion, but the Services believe that inclusion of the research condition is important to minimizing incidental take, the Services may elevate the issue in accordance with the procedures in section V.A. of this Agreement. During the elevation process, the agencies will evaluate the need for the research identified by the Service in the water quality standards consultation in light of available resources and the National Plan.

Reasonable and prudent measures and terms and conditions should be developed in close coordination with the EPA and the State or Tribe, to ensure that the measures are reasonable, that they cause only minor changes to the proposed action, and that they are within the legal authority and jurisdiction of the Agency to carry out. If the Service(s), EPA, and the States or Tribe cannot reach agreement on appropriate reasonable and prudent measures or terms and conditions at the level the consultation is being conducted, the decision can be elevated by the procedures discussed in section V.A.

As a general matter, EPA disapproval of a State or Tribal water quality standard is not a minor undertaking because it triggers a legal duty on the part of EPA to initiate promptly Federal rule-making unless the State or Tribe revises the standard within 90 days (see CWA 303(c)(3) and (4)). Where the Services and EPA agree, however, disapproval of a State or Tribal water quality standard may be included as a condition of incidental take authorization.

The Services will issue a biological opinion that concludes whether any Federally-listed species are likely to be jeopardized or critical habitat adversely modified or destroyed by the State or Tribe's new or revised water quality standards. If either of the Services makes a jeopardy or adverse modification finding, it will identify any available reasonable and prudent alternatives, which may include, but are not limited to, those specified below. EPA will notify the Service of its final decision on the action.

Some possible ideas for development of specific reasonable and prudent alternatives:

a. EPA coordinates with the State or Tribe to adopt (or revise) water quality standards necessary to remove the jeopardy situation.

b. EPA disapproves relevant portions of the State or Tribe's adopted standards (see 40 CFR 131.21) and initiates promulgation of Federal standards for the relevant water body (see 40 CFR 131.22). Where appropriate, EPA would promulgate such standards on an expedited basis.

c. Using its authority under section 303(c)(4)(B) of the CWA, EPA promulgates Federal standards as necessary.

8. EPA Action on State or Tribal Standards

After reviewing the biological opinion, EPA will inform the Service of its intended action.

B. Existing Water Quality Standards

If the Services present information to EPA, or EPA otherwise has information supporting a determination that existing State or Tribal water quality standards are not adequate to avoid jeopardizing endangered or threatened Federally-listed species or adversely modifying critical habitat or for protecting and propagating fish, shellfish and wildlife, EPA will work with the State or Tribe in the context of its triennial review process to obtain revisions in the State or Tribal standards. Such revisions could include, where appropriate, adoption of site-specific water quality standards tailored to the geographic range of the species of concern. If a State or Tribe does not make such revisions, the EPA regional office will recommend to the EPA Administrator that a finding be made under section 303(c)(4)(B) of the CWA that the revisions are necessary.

EPA will engage in section 7 consultation to ensure that any revisions to the existing standards are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat and to minimize any anticipated incidental take. If EPA and the Services disagree regarding the need for revisions in the State or Tribal standards, the issue may be elevated. Consultation will be consistent with the provisions of 50 CFR 402 and part A above.

C. Consultation on EPA Promulgation of State or Tribal Water Quality Standards

EPA promulgation of State or Tribal water quality standards is a Federal

rule-making process and EPA will comply with the consultation requirements of section 7 of the ESA with any promulgation.

IX. Permitting Program Activities

This Agreement establishes a framework for coordinating actions by EPA and the Services for activities under the CWA section 402. These activities are: (1) EPA approval of State or Tribal permitting programs, (2) EPA review of permits issued by States or Tribes with approved permitting programs, and (3) EPA issuance of permits under section 402 of the CWA.

A. Programmatic Section 7 Consultation

EPA and the Services will conduct a national programmatic consultation on whether the establishment of the procedures identified in section IX.B below is sufficient to avoid the likely jeopardy of listed species due to discharges authorized under State and Tribal NPDES programs. The consultation will be conducted in accordance with the procedures in 50 CFR part 402 and the guidance contained in the Services' Consultation Handbook.

In its consultation request, EPA will provide the Services with a description of the CWA requirements applicable to the State and Tribal programs and EPA's program oversight authorities that are proposed to ensure that species will be protected, including the identification of State or Tribal water quality standards that ensure the protection of endangered and threatened species.

If the Services anticipate that State/Tribal NPDES permits would cause incidental take of listed species, the agencies anticipate that the Services' opinion will authorize such take, except where the Service believes that the adverse effects of a permit are more than minor and, after elevation to headquarters, EPA chooses not to object to the permit under its CWA authorities. The Services anticipate that any incidental take authorization will apply to discharges authorized under permits issued after issuance of the biological opinion.

The agencies anticipate that the Services' biological opinion will cover all existing State/Tribal NPDES programs and any State/Tribal program submitted after issuance of the biological opinion where EPA makes a written commitment to follow coordination procedures that the Services agree are consistent with the procedures contained in the biological opinion on the national consultation. The agencies will determine whether the opinion should also cover existing NPDES programs that have been subject to section 7 consultation.

As new species are added to the list of threatened and endangered species, the Services will evaluate the impact of State or Tribal program assumption on the new species and determine whether reinitiation of consultation is warranted.

B. Coordination Procedures Regarding Issuance of State or Tribal Permits

EPA has authority and responsibility for overseeing the operation of State/Tribal NPDES programs through, among other means, review of State/Tribal NPDES permits where appropriate. EPA's oversight includes consideration of the impact of permitted discharges on waters and species that depend on those waters. EPA does this by determining whether State or Tribal permits indeed attain water quality standards. The procedures outlined below are designed to assist EPA in fulfilling these CWA oversight responsibilities.

EPA and the Services agree to follow the coordination procedures below with regard to EPA review of State or Tribal permits in all existing and new permitting programs approved by EPA under section 402 of the CWA. Procedures and time lines for EPA review and objection to State or Tribal permits are established by statute and regulation. See CWA section 402(d); 40 CFR 123.44. Where EPA determines that exercise of its objection authority is appropriate to protect endangered and threatened species, the Agency will act pursuant to its existing authorities under the CWA (i.e., where the proposed permit would be ''outside the guidelines and requirements'' of the CWA. See CWA 402(d)(2)). EPA and the Services will follow the coordination procedures below in a manner consistent with these statutory and regulatory procedures:

1. The Services will provide the States or Tribes with information on Federally-listed species and any designated critical habitat in the States or on Tribal lands, with special emphasis on aquatic and aquatic-dependent species.

2. States are obligated under existing CWA regulatory authority requirements to provide notice and copies of draft permits to the Services. See 40 CFR 124.10(c)(1)(iv) and (e). EPA will exercise its oversight authority to ensure that States and Tribes carry out this obligation. EPA and the Services will work with States and Tribes to share information on permits that may raise issues regarding impacts to threatened or endangered species or designated critical habitat.

3. If the Service or EPA is concerned that a NPDES permit is likely to have an adverse impact on a Federally-listed species or critical habitat, the Service or EPA will contact the appropriate State or Tribal agency (preferably within 10 days of receipt of a notice of a draft State or Tribal permit) to discuss identified concerns. The Service or EPA will provide appropriate information in support of identified concerns. The Services and EPA will provide copies to each other of comments made to States or Tribes on issues related to Federally-listed species.

4. If unable to resolve identified issue(s) with the State or Tribe, the Service will contact the appropriate EPA Regional Branch not later than five working days prior to the close of the public comment period on the State's or Tribe's draft NPDES permit. Telephone contacts should be followed by written documentation of the discussion with EPA and include or reference any relevant supporting information.

5. If contacted by the Services, EPA will coordinate with the Services and the State or Tribe to ensure that the permit will comply with all applicable CWA requirements, including State or Tribal water quality standards, which include narrative criteria prohibiting toxic discharges, and will discuss appropriate measures protective of Federally-listed species and critical habitat.

6. EPA may make a formal objection, where consistent with its CWA authority, or take other appropriate action, where EPA finds that a State or Tribal NPDES permit will likely have an adverse effect on Federally-listed species or critical habitat.

For those NPDES permits with adverse effects on Federally-listed species or critical habitat that are minor, it is the intention of the Services and EPA that the Services will work with the State or Tribe to reduce the adverse effects stemming from the permit. For those NPDES permits that have adverse effects on Federally-listed species or critical habitat that are more than minor, including circumstances where the discharge fails to ensure the protection and propagation of fish, shellfish and wildlife, and where the State or Tribe and the Services are unable to resolve the issues, it is the intention of the Services and EPA that EPA would work with the State or Tribe to remove or reduce the adverse impacts of the permit, including, in appropriate cases, by objecting to and Federalizing the permit where consistent with EPA's CWA authority.

EPA will use the full extent of its CWA authority to object to a State or Tribal permit where EPA finds (taking into account all available information,

including any analysis conducted by the Services) that a State or Tribal permit is likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

Note: EPA may review or waive review of draft State or Tribal NPDES permits (40 CFR 123.24(d)). EPA will work with the Services through the local/regional coordinating teams to help determine which categories of permits should be reviewed for endangered species concerns. If EPA finds that a draft permit has a reasonable potential to have more than a minor affect on listed species or critical habitat, and review of a draft permit has been waived, EPA will withdraw this waiver during the public comment period (see 40 CFR 123.24(e)(1)).

7. If EPA objects to a NPDES permit under paragraph 6 above, EPA will follow the permit objection procedures outlined in 40 CFR 123.44 and coordinate with the Services in seeking to have the State or Tribe revise its permit. A State or Tribe may not issue a permit over an outstanding EPA objection. If EPA assumes permit issuing authority for a NPDES permit, EPA will consult with the Service prior to issuance of the permit (as a Federal action) as appropriate under section 7 of the ESA.

8. In the case of State or Tribal permits that have already been issued, if the Services identify a permitted action which is likely to have an adverse effect on Federally-listed species or critical habitat, then the Services will contact the State or Tribe to seek to remedy the situation. EPA will provide support and assistance to the Services in working with the State or Tribe. Although EPA may, at the time of permit issuance, object to and assume permit-issuing authority for draft NPDES permits, EPA has no authority to require changes to an already-issued State or Tribal permit. EPA or the Services could request that the State or Tribe use State or Tribal authority to reopen an issued permit if it is likely to adversely affect Federally-listed species or critical habitat.

C. Issuance of EPA Permits

EPA issuance of a permit is an action subject to section 7 consultation if it may affect listed species or critical habitat. EPA will meet ESA requirements as provided in 40 CFR 122.49(c) on the issuance of individual and general NPDES permits, and 50 CFR part 402. If consultation has been completed on State or Tribal water quality standards and the NPDES permit conforms with those standards, then any ESA section 7 review process should be simplified.

EPA will assure that all permits ensure the attainment and maintenance of State or Tribal water quality standards, including those that have been the subject of consultation or have been determined to have ''no effect'' on listed species and critical habitat.

EPA and the Services agree to coordinate as follows in the review of EPA-issued permits.

1. The Services will provide to EPA, when requested, information regarding the presence of Federally-listed species, critical habitat, proposed species and proposed critical habitat, including species lists, maps, and other relevant information.

2. EPA will review permit applications and other available information (including that previously provided by the Services) to determine if issuance of a permit may affect any Federally-listed species or critical habitat. If EPA makes a ''no effect'' finding, EPA will document this determination in the permit record before public notice. EPA will also determine whether proposed species are likely to be jeopardized or proposed critical habitat adversely modified. EPA will provide the Services with the public notice of the proposed permit and EPA's determination of no effect. During the 30-day public comment period, the Services may submit comments on EPA's determination. The Services may request initiation of consultation on Federally-listed species or critical habitat or conference on proposed species if it believes the proposed action may affect listed species.

3. If EPA determines that the permitted action may affect Federally-listed species or critical habitat, EPA will initiate either informal or formal consultation. If EPA determines that the permitted action is likely to jeopardize proposed species or adversely modify proposed critical habitat, a conference will be initiated.

4. In consultations involving permits, any reasonable and prudent measures (associated with an incidental take statement) will specify the measures considered necessary or appropriate to minimize takings. The Services will describe such measures. EPA may delegate the terms and conditions of the incidental take statement to permittees. The Services will rely on EPA to retain the responsibility to ensure the terms and conditions are carried out. This approach will be reflected in the Services' incidental take statements. Monitoring reports to ensure implementation of reasonable and prudent measures and terms and conditions will be made available to the Services by EPA in accordance with the terms of the incidental take statement.

Reasonable and prudent measures and terms and conditions should be developed in close coordination with the EPA to ensure that the measures are reasonable, that they cause only minor changes to the proposed action, and that they are within the legal authority and jurisdiction of the Agency to carry out. If the Services and EPA cannot reach agreement on appropriate reasonable and prudent measures or terms and conditions at the level the consultation is being conducted, the decision can be elevated by the procedures discussed in section V.A.

D. Watershed Planning

Whenever feasible and appropriate, the Services will participate early on in watershed planning processes. The active participation of the Services as a core stakeholder in the development of watershed or basin plans should reduce or eliminate the need for, or facilitate, consultation on EPA-issued permits and coordination on individual State or Tribal NPDES permits and other site-specific actions that are contemplated in watershed plans. Such participation should save the States, Tribes, EPA and Services time and resources while improving protection and recovery efforts for both listed and unlisted species.

X. Support in Administrative and Judicial Proceedings

The Services agree to provide support when requested by EPA in defense of any requirements or actions adopted by EPA as a consequence of reasonable and prudent alternatives, measures or conservation recommendations rendered in biological opinions, or reasonable and prudent measures provided in incidental take statements. Such support in administrative and judicial proceedings will be subject to approval by the Department of the Interior's Office of the Solicitor or NOAA General Counsel's Office and EPA's General Counsel's Office.

XI. Revisions to Agreement

EPA and the Services may jointly revise this document.

XII. Reservation of Agency Positions

No party to this Agreement waives any administrative claims, positions, or interpretations it may have with respect to the applicability or the enforceability of the ESA or the CWA.

XIII. Obligation of Funds, Commitment of Resources

Nothing in this Agreement shall be construed as obligating any of the parties to the expenditure of funds in excess of appropriations authorized by law or otherwise commit any of the agencies to actions for which it lacks statutory authority. It is understood that the level of resources to be expended under this Agreement will be consistent with the level of resources available to the agencies to support such efforts.

XIV. Nature of Agreement

This memorandum is intended only to improve the internal management of EPA and the Services and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

XV. Effective Date; Termination

This memorandum will become effective upon signature by each of the parties hereto. Any of the parties may withdraw from this Agreement upon 60 days' written notice to the other parties; provided that any section 7 consultation covered by the terms of this Agreement that is pending at the time notice of withdrawal is identified by the parties, and those activities covered by this Agreement that begin the consultation process prior to and within the 60-day notice period, will continue to be covered by the terms of this Agreement.

XVI. Signatories [Reserved]

Note: It is anticipated the following individuals will sign the final Agreement when it is executed: J. Charles Fox, Assistant Administrator for Water, U.S. Environmental Protection Agency; Donald J. Barry, Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior; Terry D. Garcia, Assistant Secretary for Oceans and Atmosphere, U.S. Department of Commerce.

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January 15, 1999

Part VI

Department of Health and Human Services

Agency for Toxic Substances and Disease Registry

Update on the Status of the Superfund Substance-Specific Applied Research Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–140]

Update on the Status of the Superfund Substance-Specific Applied Research Program

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This Notice provides the status of ATSDR's Superfund-mandated Substance-Specific Applied Research Program (SSARP), which was last updated in a **Federal Register** notice in 1996 (61 FR 14420). Authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, also known as the Superfund statute), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9604(i)), this research program was initiated on October 17, 1991. At that time, a list of priority data needs for 38 priority hazardous substances frequently found at waste sites was announced in the **Federal Register** (56 FR 52178). The list was subsequently revised based on public comments and published in final form on November 16, 1992 (57 FR 54150).

The 38 substances, each of which is found on ATSDR's Priority List of Hazardous Substances (62 FR 61332, November 17, 1997), are aldrin/dieldrin, arsenic, benzene, beryllium, cadmium, carbon tetrachloride, chloroethane, chloroform, chromium, cyanide, p,p′-DDT,DDE,DDD, di(2-ethylhexyl) phthalate, lead, mercury, methylene chloride, nickel, polychlorinated biphenyl compounds (PCBs), polycyclic aromatic hydrocarbons (PAHs—includes 15 substances), selenium, tetrachloroethylene, toluene, trichloroethylene, vinyl chloride, and zinc.

On July 30, 1997, priority data needs for 12 additional hazardous substances frequently found at waste sites were determined and announced in the **Federal Register** (62 FR 40820). The 12 substances, each of which is included in ATSDR's Priority List of Hazardous Substances, are chlordane, 1,2-dibromo-3-chloropropane, di-n-butyl phthalate, disulfoton, endrin (includes endrin aldehyde), endosulfan (alpha-, beta-, and endosulfan sulfate), heptachlor (includes heptachlor epoxide), hexachlorobutadiene, hexachlorocyclohexane (alpha-, beta-, delta- and gamma-), manganese, methoxychlor, and toxaphene.

To date, 124 priority data needs have been identified for the first set of 38 hazardous substances, and 64 priority data needs have been identified for the second set of 12 hazardous substances. ATSDR fills these data needs through regulatory mechanisms (test rules), private-sector voluntarism, and the direct use of CERCLA funds. Additional data needs are being addressed through an interagency agreement with the National Toxicology Program (NTP), by ATSDR's Great Lakes Human Health Effects Research Program, and other agency programs. To date, 79 priority data needs associated with the first set of 38 priority substances (Table 1), and 23 priority data needs associated with the second set of 12 priority substances (Table 2) are being addressed via these mechanisms.

Table 1 also shows the progress ATSDR has made in filling research needs for the first set of 38 hazardous substances. On the basis of criteria developed by ATSDR, 14 priority data needs and 2 data needs have been filled, 26 priority data needs have been reclassified as data needs, and 2 additional priority data needs and 1 data need are considered conditionally filled pending ATSDR peer review of the final reports.

This Notice also serves as a continuous call for voluntary research proposals. Private-sector organizations may volunteer to conduct research to address specific priority data needs identified in this Notice by indicating their interest through submission of a letter of intent to ATSDR (see **ADDRESSES** section of this Notice). A Tri-Agency Superfund Applied Research Committee (TASARC) composed of scientists from ATSDR, NTP, and the Environmental Protection Agency (EPA), will review all proposed voluntary research efforts.

DATES: ATSDR provides updates on the status of its Substance-Specific Applied Research Program approximately every 3 years. ATSDR considers the voluntary research effort to be important to the continuing implementation of the SSARP. Therefore, the agency strongly encourages private-sector organizations to volunteer at any time to conduct research to fill data needs until ATSDR announces that other research mechanisms are in place to address those specific data needs.

ADDRESSES: Private-sector organizations interested in volunteering to conduct research may write to Dr. William Cibulas, Chief, Research Implementation Branch, Division of Toxicology, ATSDR, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333. Information about pertinent ongoing or completed research that may fill priority data needs cited in this Notice should be similarly addressed.

FOR FURTHER INFORMATION CONTACT: Dr. William Cibulas, Chief, Research Implementation Branch, Division of Toxicology, ATSDR, 1600 Clifton Road, NE., Mailstop E–29, Atlanta, Georgia 30333, telephone 404–639–6306.

SUPPLEMENTARY INFORMATION:

Background

CERCLA as amended by SARA (42 U.S.C. 9604(i)) requires that ATSDR (1) jointly with the EPA, develop and prioritize a list of hazardous substances found at National Priorities List (NPL) sites, (2) prepare toxicological profiles for these substances, and (3) assure the initiation of a research program to address identified data needs associated with the substances. Before starting such a program, ATSDR will consider recommendations of the Interagency Testing Committee on the type of research that should be done. This committee was established under Section 4(e) of the Toxic Substances Control Act of 1976 (TSCA).

The major goals of the ATSDR SSARP are (1) to address the substance-specific information needs of the public and scientific community, and (2) to supply information necessary to improve the database to conduct comprehensive public health assessments of populations living near hazardous waste sites. We anticipate that the information will enable the agency to establish linkages between levels of contaminants in the environment and levels in human tissue and organs associated with adverse health effects. Once such links have been established, strategies to mitigate potentially harmful exposures can be developed. This program will also provide data that can be generalized to other substances or areas of science, including risk assessment of chemicals, thus creating a scientific information base for addressing a broader range of data needs.

On October 17, 1991, ATSDR announced the identification of the priority data needs for 38 priority hazardous substances (56 FR 52178), requested public comments, and invited private-sector organizations to volunteer to conduct research to address specific priority data needs. On November 16, 1992, the agency published a revised list of 117 priority data needs for these hazardous substances (57 FR 54150). Since 1992, the total number of priority

data needs for the 38 substances has increased from 117 to 124 because the database was reevaluated (Table 1). The 7 additional priority data needs consist of 5 substances now considered as candidates for subregistries of exposed persons (determined by the ATSDR Division of Health Studies; the priority data needs for nickel, PCBs, toluene, and zinc were added in 1996, and that for beryllium was added in 1998), and 2 new priority data needs for trichloroethylene.

Regarding the 2 additional priority data needs for trichloroethylene, the need for intermediate-duration oral exposure data resulted from the withdrawal of the corresponding minimal risk level (MRL, a health guidance value) from the 1997 ATSDR updated Toxicological Profile for Trichloroethylene (Table 1). The other new priority data need for trichloroethylene is for a 1-species developmental toxicity study with emphasis on developmental neurotoxicity. Recent reports in humans, together with findings in animals, suggest that developmental effects may be the most sensitive end point for trichloroethylene.

Therefore, the proposed study may provide more definitive information on dose-response relationships for these effects and more fully characterize the potential for adverse health outcome in the developing fetus.

Two additional changes from the 1992 list of priority data needs have been made for tetrachloroethylene. The priority data need for chronic-duration oral exposure data has been replaced by the need for intermediate-duration oral exposure data because of the withdrawal of the intermediate-duration oral MRL from the 1997 ATSDR updated Toxicological Profile for Tetrachloroethylene (Table 1). ATSDR considers it is more appropriate to obtain intermediate-duration data before assigning priority to the conduct of chronic-duration studies. With regard to the priority to obtain developmental toxicity data, the use of 1-species (instead of the previously recommended 2-species) in the study is now considered adequate based on reevaluation of the database.

Table 1 also includes 3 PCB research needs that are not considered ''priority'' but were filled via voluntary research (see PDN ID#s 7G, 7H, and 7I).

On July 30, 1997, 77 priority data needs for 12 additional priority hazardous substances were determined and announced in the **Federal Register** (62 FR 40820). At that time, the 77 priority data needs included the need to evaluate existing data on concentrations of all 12 substances in environmental media at hazardous waste sites. The agency continues to recognize the need to collect, evaluate, and interpret such data, but no longer considers these ''priority.'' This is because a substantial amount of this information has already been collected through individual state programs and the EPA's CERCLA activities. Further, an ongoing effort at the agency is to evaluate the extant information from these programs to better characterize the need for additional site-specific information. Finally, during a recent reevaluation of potential candidates for subregistries of exposed persons conducted by ATSDR, manganese was removed from the candidate pool; consequently, this priority data need was reclassified as a data need. Therefore, the current total number of priority data needs associated with the second set of 12 priority substances is now 64 (Table 2).

CERCLA section 104(i)(5)(D) states that it is the sense of Congress that the costs for conducting this research program be borne by the manufacturers and processors of the hazardous substances under TSCA and by registrants under the Federal Insecticide, Fungicide, and Rodenticide Act of 1972 (FIFRA), or by cost recovery from responsible parties under CERCLA. To execute this statutory intent, ATSDR developed a plan whereby parts of the SSARP are being conducted via regulatory mechanisms (TSCA/FIFRA), private-sector voluntarism, and the direct use of CERCLA funds.

The TASARC, composed of scientists from ATSDR, NTP, and EPA has been set up to:

(1) Advise ATSDR on the assignment of priorities for mechanisms to address data needs;

(2) Coordinate knowledge of research activities to avoid duplication of research in other programs and under other authorities;

(3) Advise ATSDR on issues of science related to substance-specific data needs; and

(4) Maintain a scheduled forum that provides an overall review of the ATSDR SSARP.

TASARC has met eight times since the initiation of the SSARP. It has guided referral of data needs to EPA and the associated development of test rules through TSCA. In addition, it has endorsed the proposals of several private-sector organizations to conduct voluntary research. Furthermore, TASARC has become a forum for other federal agencies to bring forth their research agenda. For example, it has coordinated research efforts on hazardous pollutants with the Office of Air and Radiation, EPA. TASARC has developed testing guidelines for immunotoxicity; and it has endorsed the use of decision support methodologies such as physiologically based pharmacokinetic (PBPK) modeling and benchmark-dose modeling, where appropriate.

Additional data needs are being addressed through an interagency agreement with NTP, by ATSDR's Great Lakes Human Health Effects Research Program, and other agency programs. To date, 79 priority data needs associated with the first set of 38 priority substances (Table 1), and 23 priority data needs associated with the second set of 12 priority substances (Table 2) are being addressed via these mechanisms.

Criteria for Evaluating Status of Priority Data Needs

To update the activities covered under the SSARP, criteria for evaluating the status of the priority data needs were developed. Based on these criteria and the review of the current literature, a priority data need may be filled, reclassified as a data need, or unchanged. Further, during the literature review, new studies may be identified suggesting other effects of concern, such as those related to endocrine disruptors and children's health, which have not been included in the original list of priority data needs. In such cases, additional data needs or priority data needs may be added to the research agenda.

The criteria for evaluating the status of the priority data needs are described below.

General Criteria

1. A priority data need is filled:

- If a study, specifically designed to address a priority data need and conducted via any of the ATSDR implementation mechanisms, has been completed and published in a peer-reviewed journal, or has been accepted by ATSDR based on the recommendations of the agency's peer reviewers, or
- If an updated ATSDR toxicological profile or other recent review document contains relevant new (peer reviewed and publicly available) studies since the finalization of the priority data needs document; and it is generally agreed that a priority data need no longer exists.

Note: Priority data needs documents that describe ATSDR's rationale for prioritizing research needs for each substance in Tables 1 and 2 are available. See **ADDRESSES** section of this Notice.

2. A priority data need is reclassified as a data need:

- If an updated ATSDR toxicological profile or other recent review document contains relevant new (peer reviewed and publicly available) studies since the finalization of the priority data needs document; however, in the data needs section of the toxicological profile, a need for additional data to fully characterize the end point is still identified, or
- If a study addressing a priority data need has been reviewed by members of the Tri-Agency Superfund Applied Research Committee and it is agreed that a data need still exists although it is no longer a priority (See priority data need ''Evaluation of the environmental fate of cyanide in soil'' in Table 1), or
- For any substance whose overall rank on the ATSDR Priority List of Hazardous Substances falls below 275.

3. A priority data need is unchanged:

- If no mechanism or information has been identified to address the priority data need, or
- If the ATSDR toxicological profile has not been updated since the finalization of the priority data needs document (Exception: See Section ''Specific Criteria'' for the priority data need ''Exposure levels in humans''), or
- If the priority data need is included in the ATSDR test rule under development, or
- If ongoing discussions between ATSDR and a private-sector organization indicate that the priority data need is a candidate to be addressed via the voluntary research program, or
- If a study, specifically designed to address a priority data need and conducted via any of the ATSDR implementation mechanisms, is ongoing.

Specific Criteria

1. Priority data need, ''Inhalation and/or oral dose-response data for acute, intermediate, and/or chronic duration.''

These priority data needs are filled if minimal risk levels (MRLs) have been derived in the updated ATSDR toxicological profile since the finalization of the priority data needs document. However, in certain cases where the database (from which an MRL is derived) is sparse, a data need may still be identified in the toxicological profile to increase the confidence in the MRL.

2. Priority data need, ''Exposure levels in humans.''

This priority data need is considered filled if there are reference range data (e.g., National Health and Nutrition Examination Survey [NHANES]) or generally agreed upon background population levels *AND* if there are current and adequate biomonitoring data for exposed populations associated with health effects (from published or ongoing studies).

This priority data need is reclassified as a data need if only *one* of the following 2 criteria is met: (1) There are reference range data or generally agreed upon background population levels *OR* (2) if there are current and adequate biomonitoring data for exposed populations associated with health effects (from published or ongoing studies).

3. Priority data need ''Mechanism of toxic action.''

This priority data need is considered filled if there is scientific consensus indicating that the mechanism(s) of toxic action is well characterized.

This priority data need is reclassified as a data need if an updated toxicological profile contains relevant new (peer reviewed and publicly available) studies since the finalization of the priority data needs document; however, the database may not be sufficient to achieve scientific consensus on the mechanism of toxic action.

Based on the above criteria, the status of the research needs for the first set of 38 priority substances was evaluated (Table 1). To date, 14 priority data needs and 2 data needs have been filled, 26 priority data needs have been reclassified as data needs, and 2 additional priority data needs (Table 1, vinyl chloride, PDN ID #4B and 4E) and 1 data need (Table 1, PCBs, PDN ID #7H) are considered conditionally filled pending ATSDR peer review of the final reports.

Update of Activities in the SSARP

An update of the activities associated with the mechanisms for implementing the ATSDR Substance-Specific Applied Research Program (SSARP) is discussed below.

A. TSCA/FIFRA

In developing and implementing the SSARP, ATSDR, NTP, and EPA identified priority data needs for substances on the TSCA inventory of mutual interest to the federal programs. These data needs are being addressed through a program of toxicologic testing under TSCA according to established procedures and guidelines. On several occasions when ATSDR identified priority data needs for oral exposure, other agencies needed inhalation data. In response, ATSDR is considering proposals to conduct inhalation studies in conjunction with physiologically based pharmacokinetic (PBPK) studies in lieu of oral bioassays. ATSDR expects that inhalation data derived from these studies can be used with PBPK modeling to address its oral toxicity data needs. Currently, an EPA/ATSDR test rule, under development, includes 7 ATSDR substances, i.e., benzene, chloroethane, cyanide (including hydrogen cyanide and sodium cyanide), methylene chloride, tetrachloroethylene, trichloroethylene, and toluene, and addresses 15 priority data needs (Table 3). The test rule was reviewed by ATSDR and is undergoing EPA final review. It will be available for public comment in the near future.

TASARC has established an interagency task force on metals and has recently conducted a survey to assess federal agencies' needs for testing metals. Currently, the task force has agreed to examine at least 7 metals included in the ATSDR's SSARP (arsenic, beryllium, chromium, manganese, mercury, nickel, and selenium, associated with 22 priority data needs) (Table 3). The EPA will solicit testing proposals for these metals and pursue test rule development for these metals at a later date.

B. Private-Sector Voluntarism

As part of the SSARP, on February 7, 1992, ATSDR announced a set of proposed procedures for conducting voluntary research (57 FR 4758). Revisions based on public comments were published on November 16, 1992 (57 FR 54160). Private-sector organizations were encouraged to volunteer to conduct research to address specific priority data needs.

ATSDR currently has memoranda of understanding (MOUs) in place with the General Electric Company (GE), the Halogenated Solvents Industry Alliance (HSIA), and the Chemical Manufacturers Association (CMA) (Table 3). Through the voluntary research efforts of these organizations, 12 research needs for two classes of substances (polychlorinated biphenyl compounds [PCBs] and volatile organic compounds, including methylene chloride, tetrachloroethylene, trichloroethylene, and vinyl chloride) are being addressed (Table 3).

Recently, the agency received a study protocol from the Counselors for Management, Inc., on behalf of a spectrum of the zinc industry which is considering to conduct research to address ATSDR's priority data needs for zinc. This represents the first study proposed by a private-sector organization to address priority data needs for a metal. Voluntary research covered under the three existing MOUs is described next.

General Electric Company

In 1995, ATSDR entered into an MOU with GE. This marked the first time a private-sector organization had volunteered to conduct research to address data needs identified in ATSDR's SSARP. The MOU with GE covers two studies on PCBs: (1) ''An assessment of the chronic toxicity and oncogenicity of Aroclors 1016, 1242, 1254, and 1260 administered in diet to rats,'' including ''PCB congener analyses,'' and (2) ''Metabolite detection as a tool for determining naturally occurring aerobic PCB biodegradation.'' While the above studies do not address ATSDR's *priority* data needs for PCBs, they do address other agency research needs for these substances.

The agency accepted the final report for the first study (chronic toxicity and oncogenicity) in October 1997. The study provided an in-depth understanding of the relative toxicity of the prevalent commercial mixtures of PCBs (Aroclor 1016, Aroclor 1242, Aroclor 1254, and Aroclor 1260) after long-term exposures. The investigators found exposure-related toxicity for all four Aroclors. Furthermore, the study includes characterization of PCB composition, tissue accumulation, and correlations with tumorigenicity in chronically dosed rats. With regard to the second GE study (aerobic PCB biodegradation), also covered under the MOU, the final report is being evaluated by ATSDR's peer reviewers. The acceptance of the final report will be based on the recommendations of the reviewers and GE's satisfactory response to the reviewers' comments.

Halogenated Solvents Industry Alliance (HSIA)

In 1995, ATSDR entered into an MOU with HSIA covering studies to address three priority toxicity data needs for methylene chloride. The studies, ''Addressing priority data needs for methylene chloride with physiologically based pharmacokinetic modeling,'' evaluated acute- and subchronic-duration toxicity via oral exposures and developmental toxicity via oral exposure. The data were obtained by using physiologically based pharmacokinetic modeling.

The final report for these studies, the first one to be completed under the voluntary research program, was accepted by the agency in February 1997. The HSIA studies indicated that adverse health effects on the central nervous system, liver, and the development of newborns may occur if people drink water containing high concentrations of methylene chloride (565 to 6,170 milligrams methylene chloride per liter of water). These amounts are much larger than what most people are exposed to in the environment. However, these amounts approach levels found at industrial sites and in waste waters (ATSDR's Toxicological Profile for Methylene Chloride, 1993). HSIA has also proposed to conduct an immunotoxicity assessment for methylene chloride via inhalation exposure. The agency expects to receive a study protocol from HSIA for peer review in the near future.

In addition, ATSDR and HSIA are continuing negotiation to expand the existing MOU to include research on trichloroethylene and tetrachloroethylene.

Chemical Manufacturers Association (CMA)

In 1996, ATSDR entered into an MOU with CMA covering two studies, ''Vinyl chloride: Combined inhalation two-generation reproduction and developmental toxicity study in CD rats.'' Recently, the ATSDR peer review of the final report on the developmental toxicity study was completed. The final report for the reproductive toxicity study is undergoing ATSDR peer review. Acceptance of the final reports is based on the reviewers' recommendations and CMA's satisfactory response to the reviewers' comments.

C. CERCLA-Funded Research (Minority Health Professions Foundation Research Program)

During FY 1992, ATSDR announced a $4 million cooperative agreement program with the Minority Health Professions Foundation (MHPF) to support substance-specific investigations. A not-for-profit 501(c)(3) organization, the MHPF comprises 11 minority health professions schools. Its primary mission is to research the health problems that disproportionately affect poor and minority citizens. The purpose of this cooperative agreement is to address substance-specific data needs for priority hazardous substances identified by ATSDR. In addition, this agreement strengthens the environmental health research opportunities for scientists and students at MHPF member institutions and enhances existing disciplinary capacities to conduct research in toxicology and environmental health.

In the first 5-year project period that concluded during FY 1997, 9 priority data needs for 21 priority hazardous substances and 22 data needs for these and other substances were addressed. The MHPF has developed a report, ''Environmental Health and Toxicology Research Program: Meeting Environmental Health Challenges Through Research, Education, and Service,'' that describes the research findings and other successes from the first 5 years of the program. New research initiated in the second 5-year project period includes studies to address 10 additional priority data needs for chlordane, 1,2-dibromo-3-chloropropane, di-n-butyl phthalate, lead, manganese, the polycyclic aromatic hydrocarbons (PAHs), and zinc, and another 8 data needs.

To date, the MHPF activities have resulted in the publication of 21 manuscripts in peer-reviewed journals. Findings from this program were presented at a symposium held in April 1997, in New Orleans. Also, these and other research findings from the program were featured in a special session during the 1998 annual meeting of the Society of Toxicology in Seattle. The institutions receiving awards and their respective research projects are listed in Table 3.

D. National Toxicology Program (NTP)

ATSDR maintains an interagency agreement (IAG) with NTP to conduct toxicologic testing of substances identified at NPL sites. The studies determine levels of exposure that present a significant risk to humans of acute, subchronic, and chronic health effects. Often these studies include an assessment of the substance's ability to cause cancer, reproductive toxicity, and birth defects. The results of these studies are used by regulatory agencies, various environmental and industrial groups, and ATSDR to improve its ability to conduct public health assessments at NPL sites.

Under this agreement, one toxicity priority data need identified in the SSARP (immunotoxicology study of carbon tetrachloride) was filled (Table 1). Research efforts to address reproductive toxicity data needs for chlordane, endrin, and heptachlor, the bioavailability of PCBs in soil, and dose-response data for di-n-butyl phthalate are also ongoing (Table 3).

During FY 1993, the existing IAG was modified to include toxicity studies of ATSDR's priority hazardous substances via application of structure-activity relationship (SAR) techniques, PBPK modeling, and functional toxicity testing. The ATSDR-supported NTP studies in these areas are ongoing.

E. Great Lakes Human Health Effects Research Program

Some of the priority data needs identified in the SSARP have been

independently identified as research needs through the ATSDR Great Lakes Human Health Effects Research Program, a separate research program.

In support of the Great Lakes Critical Programs Act of 1990, ATSDR announced in FY 1992 the availability of $2 million for a grant program to conduct research on the potential for short-and long-term adverse health effects from consumption of contaminated fish from the Great Lakes basin. Research undertaken through this program is intended to build on and amplify the results of past and ongoing fish consumption research in the Great Lakes basin. The ATSDR-supported research projects focus on known high-risk populations to further define the human health consequences of exposure to persistent toxic substances (PTSs) identified in the Great Lakes basin. These at-risk populations include sport anglers, Native Americans, pregnant women, fetuses and nursing infants of mothers who consume contaminated Great Lakes fish, infants and children, the elderly, and the urban poor.

To date, the research activities of the ATSDR Great Lakes research program have resulted in 22 manuscripts in peer-reviewed journals. An additional 13 manuscripts have been accepted for publication and will soon be in press. Research findings from this program have been presented at 8 international conferences and various scientific meetings and symposia.

Currently, 13 priority data needs and 1 data need for 24 priority hazardous substances (including 15 PAHs) identified in the SSARP are being addressed through this program. The institutions receiving awards and their respective studies are listed in Table 3.

F. Other ATSDR Programs

In its role as a public health agency addressing environmental health, ATSDR may collect human data to validate substance-specific exposure and toxicity findings. The need for additional information on levels of contaminants in humans has been identified and remains as a priority data need for 37 of the first set of 38 priority substances (Table 1). Similarly, this priority data need has been identified for all 12 of the second set of 12 priority substances. ATSDR will obtain this information through exposure and health effects studies, and through establishing and using substance-specific subregistries of people within the agency's National Exposure Registry who have potentially been exposed to these substances.

The list of 50 priority hazardous substances in the SSARP was forwarded to ATSDR's Exposure and Disease Registry Branch (EDRB), Division of Health Studies, for consideration as potential candidates for subregistries of exposed persons, based on criteria described in its 1994 document, ''National Exposure Registry: Policies and Procedures Manual (Revised),'' Agency for Toxic Substances and Disease Registry, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia, NTIS Publication No. PB95–154571. To date, of the first set of 38 priority substances in the SSARP, ATSDR has selected benzene, chromium, and trichloroethylene as primary contaminants to establish subregistries in the National Exposure Registry. However, aldrin/dieldrin, beryllium, carbon tetrachloride, chloroethane, chloroform, cyanide, p,p'-DDT, DDE, DDD, di(2-ethylhexyl)phthalate, mercury, methylene chloride, nickel, PAHs, PCBs, selenium, tetrachloroethylene, toluene, vinyl chloride, and zinc remain in the candidate pool and therefore continue to be classified as priority data needs. They will be considered for selection as primary contaminants during each selection process (Table 1). Arsenic, cadmium, and lead are not considered to be in the pool of candidate substances for an exposure registry at this time, and therefore, are not considered priority data needs. This decision will be reevaluated as more information on the chemicals and exposure sites become available.

Regarding the second set of 12 priority substances, all of them were included in the candidate pool for establishment of exposure subregistries (i.e., priority data needs, published in the 1996 **Federal Register** Notice [61 FR 14430]). However, during a recent reevaluation of the database, manganese was removed from the candidate pool, and therefore, this priority data need for manganese has been reclassified as a data need, and is not included in Table 2.

The results of the research conducted via the SSARP will be used for public health assessments and to reassess ATSDR's substance-specific priority data needs. The agency expects to provide an update on the status of this research program every three years.

Dated: January 11, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

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Table 1

Substance-Specific Priority Data Needs (PDNs) for First Set of 38 Priority Hazardous Substances

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Lead	1A	Mechanistic studies on the neurotoxic effects of lead	MHPF	Data need	Multiple new studies (11 published MHPF studies + more than 10 new relevant published studies and at least 3 ongoing studies in the updated toxicological profile [(August 1997]) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	1B	Analytical methods for tissue levels		Data need	Two relevant ongoing studies in the updated toxicological profile (August 1997) potentially address the PDN.
	1C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	MHPF G. Lakes	Filled	Referent population blood and urine lead levels are available (NHANES III, Paschal et al. 1998), and at least 19 ATSDR studies that evaluated blood lead levels and potential adverse health effects are available.
Arsenic	2A	Comparative toxicokinetic studies to determine if an appropriate animal species can be identified	EPA		
	2B	Half-lives in surface water, groundwater	EPA		
	2C	Bioavailability from soil	EPA		
	2D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes	Data need	Background level data are available in toxicological profile (April 1993), and at least 7 ATSDR studies that evaluated urine arsenic levels and potential adverse health effects are available. This PDN may be further reclassified as "filled" during the ongoing development of the updated toxicological profile.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Mercury	3A	Multigeneration reproductive toxicity study via oral exposure	MHPF		
	3B	Dose-response data in animals for chronic-duration oral exposure	EPA		
	3C	Immunotoxicology battery of tests via oral exposure	EPA		
	3D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes	Filled	Background levels data are available in the updated toxicological profile (August 1997), and multiple studies that evaluated blood, urine, and hair mercury levels and potential adverse health effects are available (5 ATSDR studies+ at least 8 ongoing studies of the Great Lakes research program).
	3E	Potential candidate for subregistry of exposed persons	ATSDR		
Vinyl Chloride	4A	Dose-response data in animals for acute-duration inhalation exposure		Filled	An MRL was derived since the finalization of the PDN document.
	4B	Multigeneration reproductive toxicity study via inhalation	Vol Res	Filled[4] pending agency review	The Chemical Manufacturers Association conducted a study to address this PDN.
	4C	Dose-response data in animals for chronic-duration inhalation exposure			
	4D	Mitigation of vinyl chloride-induced toxicity			
	4E	2-Species developmental toxicity study via inhalation	Vol Res	Filled[5] pending agency review	The Chemical Manufacturers Association conducted a study to address this PDN.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	4F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers			
	4G	Potential candidate for subregistry of exposed persons	ATSDR		
Benzene	5A	Dose-response data in animals for acute- and intermediate-duration oral exposure. The subchronic study should include an extended reproductive organ histopathology.	EPA		
	5B	2-Species developmental toxicity study via oral exposure	MHPF		
	5C	Neurotoxicology battery of tests via oral exposure	EPA		
	5D	Epidemiologic studies on the health effects of benzene (Special emphasis end points include immunotoxicity.)			
	5E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations are available (Ashley et al. 1992, 1994, Needham et al. 1995), and at least one ATSDR study that evaluated blood benzene levels and potential adverse health effects is available.
Cadmium	6A	Analytical methods for biological tissues and fluids and environmental media		Data need	At least 8 new relevant studies in the updated toxicological profile [(September 1997]) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	6B	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes	Filled	Referent population urine cadmium levels are available (NHANES III), and at least 9 ATSDR studies that evaluated blood and urine cadmium levels and potential adverse health effects are available.
PCBs	7A	Dose-response data in animals for acute- and intermediate-duration oral exposures	G. Lakes		
	7B	Biodegradation of PCBs in water; bioavailability of PCBs in air, water, and soil	NTP[6]		
	7C	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology.			
	7D	Epidemiologic studies on the health effects of PCBs (Special emphasis end points include immunotoxicity, gastrointestinal toxicity, liver toxicity, kidney toxicity, thyroid toxicity, and reproductive/developmental toxicity.)	G. Lakes	Data need	At least 2 new relevant published studies in the updated toxicological profile (September 1997) and at least 5 ongoing studies in the Great Lakes research program potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	7E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes	Filled	Background levels data are available (updated toxicological profile, September 1997, and Needham et al. 1996), and multiple studies that evaluated blood and breast milk PCB levels and potential adverse health effects are available (at least 6 ATSDR studies + at least 8 ongoing studies in the Great Lakes research program).
	7F	Potential candidate for subregistry of exposed persons	ATSDR		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	7G[7]	Chronic toxicity and oncogenicity via oral exposure	Vol Res	Filled	The General Electric Company study addressing this data need was accepted by ATSDR upon the recommendations of the ATSDR peer reviewers.
	7H[7]	Aerobic PCB biodegradation in sediment	Vol Res	Filled[8] pending agency review	The study was conducted by the General Electric Company.
	7I[7]	PCB congener analysis	Vol Res G. Lakes	Filled	The General Electric Company study addressing this data need was accepted by ATSDR upon the recommendations of the ATSDR peer reviewers.
Chloroform	8A	Dose-response data in animals for intermediate-duration oral exposure		Filled	An MRL was derived in the updated toxicological profile (September 1997).
	8B	Epidemiologic studies on the health effects of chloroform (Special emphasis end points include cancer, neurotoxicity, reproductive and developmental toxicity, hepatotoxicity, and renal toxicity.)			
	8C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, and Needham et al. 1995).
	8D	Potential candidate for subregistry of exposed persons	ATSDR		
PAHs	9A	Dose-response data in animals for intermediate-duration oral exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	MHPF	Filled	MRLs for 4 PAHs were derived in the updated toxicological profile (August 1995).

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	9B	2-Species developmental toxicity study via inhalation or oral exposure	MHPF		
	9C	Mechanistic studies on PAHs, on how mixtures of PAHs can influence the ultimate activation of PAHs, and on how PAHs affect rapidly proliferating tissues		Data need	At least 12 new relevant studies in the updated toxicological profile (August 1995) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	9D	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	MHPF		
	9E	Epidemiologic studies on the health effects of PAHs (Special emphasis end points include cancer, dermal, hemolymphatic,and hepatic toxicity.)		Data need	At least 3 new relevant studies in the updated toxicological profile (August 1995) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	9F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes		
	9G	Potential candidate for subregistry of exposed persons	ATSDR		
Trichloro-ethylene	10A	Dose-response data in animals for acute-duration oral exposure		Filled	An MRL was derived in the updated toxicological profile (September 1997).
	10B	Neurotoxicology battery of tests via the oral route	EPA MHPF		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	10C	Immunotoxicology battery of tests via the oral route	EPA Vol Res		
	10D	Epidemiologic studies on the health effects of trichloroethylene (Special emphasis end points include cancer, hepatotoxicity, renal toxicity, developmental toxicity, and neurotoxicity.)		Data need	At least 6 new relevant studies and 1 ongoing study in the updated toxicological profile (September 1997) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	10E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, Needham et al. 1995).
	10F[9]	Dose-response data in animals for intermediate-duration oral exposure	EPA		
	10G[10]	1-Species developmental toxicity study via oral exposure	EPA Vol Res		
DDT	11A	Dose-response data in animals for chronic-duration oral exposure			
	11B	Comparative toxicokinetic study (across routes/species)			
	11C	Bioavailability and bioaccumulation from soil			
	11D	Epidemiologic studies on the health effects of DDT, DDD, and DDE (Special emphasis end points include immunotoxicity, and reproductive and developmental toxicity.)	G. Lakes	Data need	At least 6 new relevant studies in the updated toxicological profile (May 1994) and 5 ongoing studies in the Great Lakes research program potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	11E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes		
	11F	Potential candidate for subregistry of exposed persons	ATSDR		
Chromium	12A	Dose-response data in animals for acute-duration exposure to chromium (VI) and (III) via oral exposure and for intermediate-duration exposure to chromium (VI) via oral exposure	EPA		
	12B	Multigeneration reproductive toxicity study via oral exposure to chromium (III) and (VI)	EPA		
	12C	Immunotoxicology battery of tests following oral exposure to chromium (III) and (VI)	EPA		
	12D	2-Species developmental toxicity study via oral exposure to chromium (III) and (VI)	EPA		
	12E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes	Data need	Reference range concentrations in urine are available (Paschal et al. 1998). Also, at least 2 ATSDR studies that evaluated urine chromium levels and potential adverse health effects are available. This PDN may be further reclassified as "filled" during the ongoing development of the updated toxicological profile.
Tetrachloro-ethylene	13A	Dose-response data in animals for acute-duration oral exposure, including neuropathology and demeanor, and immunopathology		Filled	An MRL was derived in the updated toxicological profile (September 1997).

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	13B	Multigeneration reproductive toxicity study via oral exposure	Vol Res	Data need	The Halogenated Solvents Industry Alliance, Inc.'s inhalation study was accepted by ATSDR and included in the updated toxicological profile (September 1997) upon the recommendations of the ATSDR peer reviewers. The oral data may potentially be obtained from the inhalation data by physiologically based pharmacokinetic (PBPK) modeling.
	13C[11]	Dose-response data in animals for intermediate-duration oral exposure, including neuropathology and demeanor, and immunopathology	EPA Vol Res		The Halogenated Solvents Industry Alliance, Inc. intends to obtain oral data for neurotoxicity by PBPK modeling, and to conduct an immunotoxicology study.
	13D[12]	1-Species developmental toxicity study via oral exposure	EPA Vol Res		
	13E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, Needham et al. 1995).
	13F	Potential candidate for subregistry of exposed persons	ATSDR		
Aldrin/ Dieldrin	14A	Dose-response data in animals for intermediate-duration oral exposure			
	14B	Bioavailability from soil			
	14C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes		
	14D	Potential candidate for subregistry of exposed persons	ATSDR		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Cyanide	15A	Dose-response data in animals for acute- and intermediate-duration exposures via inhalation. The subchronic study should include extended reproductive organ histopathology and evaluation of neurobehavioral and neuropathological end points.	EPA		
	15B	2-Species developmental toxicity study via oral exposure	EPA		
	15C	Evaluation of the environmental fate of cyanide in soil		Data need	A study addressing the PDN was submitted by industry to the Environmental Protection Agency (EPA) in response to EPA's solicitation for proposals for test rule making. Scientists from EPA and ATSDR reviewed the study and considered a data need still exists, although it is no longer a priority. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	15D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers			
	15E	Potential candidate for subregistry of exposed persons	ATSDR		
Carbon Tetrachloride	16A	Dose-response data in animals for chronic oral exposure. The study should include extended reproductive organ and nervous tissue (and demeanor) histopathology.			
	16B	Immunotoxicology battery of tests via oral exposure	NTP	Filled	NTP dose-finding study and one new study in the updated toxicological profile (May 1994) addressed the PDN. Also, no additional studies for this exposure route were identified in the data needs section of the updated toxicological profile.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	16C	Half-life in soil		Data need	One new study in the updated toxicological profile (May 1994) potentially addresses the PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	16D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, Needham et al. 1995).
	16E	Potential candidate for subregistry of exposed persons	ATSDR		
Beryllium	17A	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology.	EPA		
	17B	2-Species developmental toxicity study via inhalation exposure	EPA		
	17C	Environmental fate in air; factors affecting bioavailability in air	EPA		
	17D	Analytical methods to determine environmental speciation			
	17E	Immunotoxicology battery of tests following oral exposure	EPA		
	17F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in urine are available (Paschal et al. 1998).
	17G[13]	Potential candidate for subregistry of exposed persons	ATSDR		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Toluene	18A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathologic evaluation of the immune system.	EPA	Filled	MRLs for acute and intermediate exposure durations were derived in the updated toxicological profile (May 1994).
	18B	Comparative toxicokinetic studies (Characterization of absorption, distribution, and excretion via oral exposure)			
	18C	Neurotoxicology battery of tests via oral exposure	EPA MHPF		
	18D	Mechanism of toluene-induced neurotoxicity		Data need	At least 15 new relevant studies in the updated toxicological profile (May 1994) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	18E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, Needham et al. 1995).
	18F	Potential candidate for subregistry of exposed persons	ATSDR		
Nickel	19A	Epidemiologic studies on the health effects of nickel (Special emphasis end points include reproductive toxicity.)		Data need	At least 2 new relevant studies in the updated toxicological profile (September 1997) potentially address this PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.
	19B	2-Species developmental toxicity study via the oral route	EPA	Data need	In the updated toxicological profile (September 1997), a new study confirming the results of 2 previous studies potentially addresses the PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	19C	Dose-response data in animals for acute- and intermediate-duration oral exposures	EPA		
	19D	Neurotoxicology battery of tests via oral exposure	EPA		
	19E	Bioavailability of nickel from soil	EPA		
	19F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	G. Lakes		
	19G	Potential candidate for subregistry of exposed persons	ATSDR		
Methylene Chloride	20A	Dose-response data in animals for acute- and intermediate-duration oral exposure. The subchronic study should include extended reproductive organ histopathology, neuropathology and demeanor, and immunopathology.	EPA Vol Res	Filled	ATSDR accepted the Halogenated Solvents Industry Alliance, Inc.'s study addressing this PDN upon the recommendations of the ATSDR peer reviewers.
	20B	2-Species developmental toxicity study via the oral route	EPA Vol Res	Filled	ATSDR accepted the Halogenated Solvents Industry Alliance, Inc.'s study addressing this PDN upon the recommendations of the ATSDR peer reviewers.
	20C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Reference range concentrations in blood are available (Ashley et al. 1992, 1994, Needham et al. 1995).
	20D	Potential candidate for subregistry of exposed persons	ATSDR		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Zinc	21A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathologic evaluation of the immunologic and neurologic systems.	MHPF		
	21B	Multigeneration reproductive toxicity study via oral exposure	MHPF		
	21C	Carcinogenicity testing (2-year bioassay) via oral exposure			
	21D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	Vol Res		
	21E	Potential candidate for subregistry of exposed persons	ATSDR		
DEHP	22A	Epidemiologic studies on the health effects of DEHP (Special emphasis end points include cancer.)			
	22B	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathologic evaluation of the immunologic and neurologic systems.		Filled	MRLs for acute and intermediate exposure durations were derived in the updated toxicological profile (April 1993).
	22C	Multigeneration reproductive toxicity study via oral exposure		Data need	At least 3 new relevant studies in the updated toxicological profile (April 1993) potentially address the PDN. This PDN may be further reclassified as "filled" during future reevaluation of the database.

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
	22D	Comparative toxicokinetic studies (Studies designed to examine how primates metabolize and distribute DEHP as compared with rodents via oral exposure)			
	22E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers			
	22F	Potential candidate for subregistry of exposed persons	ATSDR		
Selenium	23A	Dose-response data in animals for acute-duration oral exposure	EPA		
	23B	Immunotoxicology battery of tests via oral exposure	EPA		
	23C	Epidemiologic studies on the health effects of selenium (Special emphasis end points include cancer, reproductive and developmental toxicity, hepatotoxicity, and adverse skin effects.)			
	23D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers		Data need	Referent population serum selenium levels are known (NHANES).
	23E	Potential candidate for subregistry of exposed persons	ATSDR		

Substance	PDN ID	PDN description	Program[1]	Status change[2]	Rationale for status change[3]
Chloroethane	24A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an evaluation of immune and nervous system tissues, and extended reproductive organ histopathology.	EPA		
	24B	Dose-response data in animals for chronic inhalation exposures. The study should include an evaluation of nervous system tissues.			
	24C	Potential candidate for subregistry of exposed persons	ATSDR		

[1]Programs addressing data needs. ATSDR=ATSDR's Division of Health Studies; EPA=Environmental Protection Agency-TSCA/FIFRA testing; G. Lakes=Great Lakes Human Health Effects Research Program; MHPF=Minority Health Professions Foundation schools; NTP=National Toxicology Program; Vol Res=Voluntary research.

[2] PDN may be *reclassified as a data need* or considered *filled* based on reevaluation of the database using criteria developed by ATSDR.

[3] Ashley et al. 1992=Ashley DL, Bonin MA, Cardinali FL, et al. Anal Chem (1992) 64:1021-1029; Ashley et al. 1994=Ashley DL, Bonin MA, Cardinali FL et al., Clin Chem (1994) 40/7:1401-1404; ATSDR studies=Studies conducted by ATSDR's Division of Health Studies; MHPF=Minority Health Professions Foundation schools; MRL=Minimal Risk Level; Needham et al. 1995=Needham LL, Hill RH Jr, Ashley DL, Pirkle JL, and Sampson EJ. Environ Health Perspect 103(Suppl 3):89-94 (1995); Needham et al. 1996=Needham LL, Patterson DG Jr, Burse VW, Paschal DC, Turner WE, and Hill VW Jr. Toxicol Ind Health (1996)12:507-513; NHANES III= The Third National Health and Nutrition Examination Survey, conducted by the National Center for Health Statistics, Centers for Disease Control and Prevention, Atlanta, GA; NTP=National Toxicology Program; Paschal et al. 1998=Paschal DC, Ting BC, Morrow JC, et al. (1998) Environ Res, Section A 76: 53-59; Toxicological profile=ATSDR's toxicological profiles for the agency's priority hazardous substances.

[4] This PDN will be considered *filled* pending peer review of final report and satisfactory response to the reviewers' comments by the Chemical Manufacturers Association.

[5] The final report was peer reviewed. This PDN will be considered *filled* pending satisfactory response to the reviewers' comments by the Chemical Manufacturers Association.

(6) NTP is addressing bioavailability of PCBs in soil only.

(7) Not a priority data need.

(8) Final report under ATSDR peer review. This data need will be considered *filled* pending peer review of final report and satisfactory response to the reviewers' comments by the General Electric Company.

(9) New priority data need resulting from withdrawal of intermediate oral MRL from ATSDR's *Toxicological Profile for Trichloroethylene*.

(10) New priority data need. Study to be conducted with special emphasis on developmental neurotoxicity.

(11) New priority data need resulting from withdrawal of intermediate oral MRL from ATSDR's *Toxicological Profile for Tetrachloroethylene*.

(12) Study to be conducted with special emphasis on developmental neurotoxicity.

(13) New priority data need. Beryllium has been included in the pool of candidate substances for subregistry development since the publication of the **Federal Register** notice on April 1, 1996 (61 FR 14420).

Table 2
Substance-Specific Priority Data Needs (PDN) for Second Set of 12 Priority Hazardous Substances

Substance		PDN ID	Priority Data Need	Program[1]
Hexachlorobutadiene	Exposure	25A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		25B	Environmental fate studies that determine the extent to which hexachlorobutadiene volatilizes from soil, and studies that determine the reactions and rates which drive degradation in soil	
		25C	Bioavailability studies in soil and plants	
		25D	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	25E	Dose-response data in animals for acute-duration exposure via the oral route	
Chlordane	Exposure	26A	Exposure levels in humans living near hazardous waste sites and other populations potentially exposed to chlordane	
		26B	Bioavailability studies following ingestion of contaminated media	
		26C	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	26D	Oral multigenerational studies to evaluate reproductive toxicity	MHPF NTP

Hexachlorocyclohexane α Hexachlorocyclohexane β Hexachlorocyclohexane δ Hexachlorocyclohexane γ	Exposure	27A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		27B	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	27C	Dose-response data for chronic-duration oral exposure	
		27D	Mechanistic studies on the neurotoxicity, hepatotoxicity, reproductive toxicity, and immunotoxicity of hexachlorocyclohexane	
Heptachlor Heptachlor epoxide	Exposure	28A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		28B	Bioavailability from contaminated air, water, and soil and bioaccumulation potential	
		28C	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	28D	Dose-response animal data for acute- and intermediate-duration oral exposures, including immunopathology	
		28E	Multigeneration reproductive toxicity studies via the oral route of exposure	NTP
		28F	2-Species developmental toxicity studies via the oral route of exposure	
Di-n-butyl phthalate	Exposure	29A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		29B	Environmental fate of di-n-butyl phthalate in environmental media	
		29C	Bioavailability in contaminated environmental media near hazardous waste sites	
		29D	Potential candidate for subregistry of exposed persons	ATSDR

	Toxicity	29E	Dose-response data in animals for acute-duration exposure via the oral route	NTP
		29F	Dose-response data in animals for chronic-duration exposure via the oral route	
		29G	Carcinogenicity studies via oral exposure	
		29H	In vivo genotoxicity studies	MHPF
		29I	Immunotoxicology studies via oral exposure	MHPF
		29J	Neurotoxicity studies via oral exposure	MHPF
Toxaphene	Exposure	30A	Exposure levels in humans living in areas near hazardous waste sites with toxaphene and in those individuals with the potential to ingest it	
		30B	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	30C	Identify the long-term health consequences of exposure to environmental toxaphene via oral exposure	
		30D	Conduct additional chronic animal immunotoxicity studies via the oral route of exposure	
		30E	Conduct additional chronic animal neurotoxicity studies via the oral route of exposure	
Endosulfan Endosulfan α Endosulfan β Endosulfan sulfate	Exposure	31A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		31B	Data on the bioavailability of endosulfan from soil	
		31C	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	31D	Acute-duration oral exposure studies	
		31E	Sensitive end point neurologic data on the effects of oral endosulfan exposure	

Disulfoton	Exposure	32A	Exposure levels of disulfoton in tissues/fluids for populations living near hazardous waste sites and other populations, such as exposed workers	
		32B	Disulfoton should be considered as a potential candidate for a subregistry of exposed persons.	ATSDR
	Toxicity	32C	Immunotoxicology testing battery following oral exposure.	
Endrin Endrin aldehyde	Exposure	33A	Exposure levels for endrin and its degradation products in humans living near hazardous waste sites	
		33B	Accurately describe the environmental fate of endrin, including environmental breakdown products and rates, media half-lives, and chemical and physical properties of the breakdown products that help predict mobility and volatility	
		33C	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	33D	Dose-response animal data for acute oral exposure to endrin	
		33E	Multigeneration reproductive toxicity studies via oral exposure to endrin	NTP
		33F	Accurately describe the toxicokinetics of endrin and its degradation products and identify the animal species to be used as the most appropriate model for human exposure	

Manganese	Exposure	34A	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers	
		34B	Relative bioavailability of different manganese compounds and bioavailability of manganese from soil	EPA
	Toxicity	34C	Dose-response data for acute- and intermediate-duration oral exposures (the subchronic study should include reproductive histopathology and an evaluation of immunologic parameters including manganese effects on plaque-forming cells (SRBC), surface markers (D4:D8 ratio), and delayed hypersensitivity reactions)	MHPF EPA
		34D	Toxicokinetic studies on animals to investigate uptake and absorption, relative uptake of differing manganese compounds, metabolism of manganese, and interaction of manganese with other substances following oral exposure	MHPF EPA
		34E	Epidemiological studies on the health effects of manganese (Special emphasis end points include neurologic, reproductive, developmental, immunologic, and cancer.)	
Methoxychlor	Exposure	35A	Exposure levels of methoxychlor and primary metabolites in humans living near hazardous waste sites and in those individuals with the potential to ingest it	
		35B	Evaluate the fate, transport, and levels of the degradation products of methoxychlor in soil	
		35C	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	35D	Evaluate neurologic effects after long-term, low-level oral exposure	

1,2-dibromo-3-chloropropane	Exposure	36A	Exposure levels in humans living near hazardous waste sites and other exposed populations, such as exposed workers	
		36B	Potential candidate for subregistry of exposed persons	ATSDR
	Toxicity	36C	Dose-response data in animals for acute-duration exposure via the oral route (including reproductive organ histopathology)	
		36D	Dose-response data in animals for chronic-duration exposure via the oral route (including reproductive organ histopathology)	
		36E	Two-species developmental toxicity study via oral exposure	
		36F	Immunotoxicology testing battery via oral exposure	MHPF
		36G	Neurotoxicology testing battery via oral exposure	MHPF

(1) Programs addressing priority data needs. ATSDR= ATSDR's Division of Health Studies; MHPF=Minority Health Professions Foundation schools; NTP=National Toxicology Program.

Table 3
Groups Addressing ATSDR Priority Data Needs (PDNs)

ATSDR Program	Firm, Institution, Agency, or Consortium	Substance	PDN ID
Voluntarism	Chemical Manufacturers Association	Vinyl Chloride	4B, 4E
	General Electric Company	PCBs	7G[1], 7H[1], 7I[1]
	Halogenated Solvents Industry Alliance, Inc.	Trichloroethylene	10C, 10G
		Tetrachloroethylene	13B, 13C, 13D
		Methylene chloride	20A, 20B
	Counselors for Management, Inc.[2]	Zinc	21D
Minority Health Professions Foundation Schools	Florida A & M University	Lead	1A
	The King/Drew Medical Center of the Charles R. Drew University of Medicine and Science	Lead	1C
	Meharry Medical College	PAHs	9A, 9B, 9D
	Morehouse School of Medicine	Lead	1C
	Texas Southern University	Lead	1A
		Trichloroethylene	10B
		Toluene	18C
		Di-n-butyl phthalate	29H, 29I, 29J
		1,2-dibromo-3-chloropropane	36F, 36G
	Tuskegee University	Mercury	3A
		Zinc	21A, 21B
		Chlordane	26D
	Xavier University	Benzene	5B
		Zinc	21A
		Manganese	34C, 34D

ATSDR Program	Firm, Institution, Agency, or Consortium	Substance	PDN ID
Great Lakes Human Health Effects Research Program	Michigan State University	Lead	1C
		Mercury	3D
		PCBs	7E, 7I
		DDT/DDE	11D, 11E
	New York State Health Department	Lead	1C
		Mercury	3D
		PCBs	7E, 7I
		DDT/DDE	11E
	State University of New York at Buffalo	Lead	1C
		Mercury	3D
		PCBs	7D, 7E, 7I
		DDT/DDE	11D, 11E
		Aldrin/Dieldrin	14C
	State University of New York at Oswego	Lead	1C
		Mercury	3D
		PCBs	7D, 7E, 7I
		DDT/DDE	11D, 11E
	University of Illinois at Chicago	Lead	1C
		Mercury	3D
		PCBs	7D, 7E, 7I
		DDT/DDE	11D, 11E
	University of Illinois at Urbana-Champaign	Lead	1C
		Mercury	3D
		PCBs	7D, 7E, 7I
	University of Wisconsin - Milwaukee	Lead	1C
		Mercury	3D
		PCBs	7A, 7D, 7E, 7I
	Wisconsin Department of Health and Social Services--5 State Consortium	Lead	1C
		Mercury	3D

ATSDR Program	Firm, Institution, Agency, or Consortium	Substance	PDN ID
		Arsenic	2D
		Cadmium	6B
		PCBs	7E, 7I,
		PAHs	9F
		DDT/DDE	11D, 11E
		Chromium	12E
		Nickel	19F
Environmental Protection Agency TSCA/ FIFRA	ATSDR Test Rule	Benzene	5A, 5C
		Trichloroethylene	10B, 10C, 10F, 10G
		Tetrachloroethylene	13C, 13D
		Cyanide	15A, 15B
		Toluene	18A, 18C
		Methylene chloride	20A, 20B
		Chloroethane	24A
	Metals Testing Task Force (TASARC)	Arsenic	2A, 2B, 2C
		Mercury	3B, 3C
		Chromium	12A, 12B, 12C, 12D
		Beryllium	17A, 17B, 17C, 17E
		Nickel	19B, 19C, 19D, 19E
		Selenium	23A, 23B
		Manganese	34B, 34C, 34D
National Toxicology Program	National Institute of Environmental Health Sciences	PCBs	7B
		Carbon Tetrachloride	16B
		Chlordane	26D
		Heptachlor	28E
		Di-n-butyl phthalate	29E
		Endrin	33E

(1) Not priority data needs.
(2) To date, no MOU has been signed.

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federal register

Friday
January 15, 1999

Part VII

The President

Executive Order 13111—Using Technology To Improve Training Opportunites for Federal Government Employees

Federal Register
Vol. 64, No. 10
Friday, January 15, 1999

Presidential Documents

Title 3—

The President

Executive Order 13111 of January 12, 1999

Using Technology To Improve Training Opportunities for Federal Government Employees

Advances in technology and increased skills needs are changing the workplace at an ever increasing rate. These advances can make Federal employees more productive and provide improved service to our customers, the American taxpayers. We need to ensure that we continue to train Federal employees to take full advantage of these technological advances and to acquire the skills and learning needed to succeed in a changing workplace. A coordinated Federal effort is needed to provide flexible training opportunities to employees and to explore how Federal training programs, initiatives, and policies can better support lifelong learning through the use of learning technology.

To help us meet these goals, I am creating a task force on Federal training technology, directing Federal agencies to take certain steps to enhance employees' training opportunities through the use of training technology, and an advisory committee on the use of training technology, which also will explore options for financing the training and post-secondary education needed to upgrade skills and gain new knowledge.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in furtherance of the purposes of Chapter 41 of title 5, United States Code, the Government Employees Training Act of 1958 (Public Law 85–507), as amended, and Executive Order 11348, ''Providing for the Further Training of Government Employees,'' and in order to make effective use of technology to improve training opportunities for Federal Government employees, it is ordered as follows:

Section 1. *Establishment of the President's Task Force on Federal Training Technology.* (a) The ''President's Task Force on Federal Training Technology'' (Task Force) is established. The Task Force shall provide leadership regarding the effective use of technology in training and education; make training opportunities an integral part of continuing employment in the Federal Government; and facilitate the ongoing coordination of Federal activities concerning the use of technology in training. The Task Force shall consist of the heads of the following departments and agencies or their representatives: the Departments of State, the Treasury, Defense, Justice, Interior, Agriculture, Commerce, Labor, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education; the Office of Personnel Management, General Services Administration, Environmental Protection Agency, National Aeronautics and Space and Administration, Small Business Administration, and Social Security Administration; a representative from the Small Agency Council; and representatives from other relevant agencies and related Federal councils, as determined by the Chair and Vice Chair of the Task Force.

(b) Within 30 days of the date of this order, the head of each agency or council shall designate a senior official to serve as a representative to the Task Force. The representative shall report directly to the agency head or the President's Management Council member on the agency's or council's activities under this order.

(c) The Director of the Office of Personnel Management (OPM) shall be the Chair and the representative from the Department of Labor shall be the Vice Chair of the Task Force.

(d) The Chair and Vice Chair shall appoint an Executive Director.

(e) The Task Force member agencies shall provide any required staffing and funding, as appropriate.

Sec. 2. *Duties of the Task Force.* (a) Within 18 months of the date of this order, the Task Force shall develop and recommend to the President, through the Assistant to the President for Economic Policy and the Assistant to the President for Science and Technology, a policy to make effective use of technology to improve training opportunities for Federal Government employees. The policy should promote and integrate the effective use of training technologies to create affordable and convenient training opportunities to improve Federal employee performance. The Task Force shall seek the views of experts from industry, academia, and State and local governments as the Task Force proceeds, as appropriate. Specifically, the Task Force shall:

(1) develop strategies to improve the efficiency and availability of training opportunities for Federal Government employees;

(2) form partnerships among key Federal agencies, State and local governments, businesses, universities, and other appropriate entities to promote the development and use of high-quality training opportunities;

(3) analyze the use of technology in existing training programs and policies of the Task Force member agencies to determine what changes, modifications, and innovations may be necessary to advance training opportunities;

(4) in consultation with the Department of Defense and the National Institute of Standards and Technology, recommend standards for training software and associated services purchased by Federal agencies and contractors. These standards should be consistent with voluntary industry consensus-based commercial standards. Agencies, where appropriate, should use these standards in procurements to promote reusable training component software and thereby reduce duplication in the development of courseware;

(5) evaluate and, where appropriate, coordinate and collaborate on, research and demonstration activities of Task Force member agencies related to Federal training technology;

(6) identify and support cross-agency training areas that would particularly benefit from new instructional technologies and facilitate multiagency procurement and use of training materials, where appropriate;

(7) in consultation with the General Services Administration, the Office of Personnel Management, and the Office of Federal Procurement Policy of the Office of Management and Budget (OFPP), promote existing and new procurement vehicles that allow agencies to provide innovative training opportunities for Federal employees;

(8) recommend changes that may be needed to existing procurement laws to further the objectives of this order and forward the recommendations to the Administrator of OFPP; and

(b) develop options and recommendations for establishing a Federal Individual Training Account for each Federal worker for training relevant to his or her Federal employment. To the extent permitted by law, such accounts may be established with the funds allocated to the agency for employee training. Approval for training would be within the discretion of the individual employee's manager. Options and recommendations shall be reported no later than 6 months from the date of this order.

Sec. 3. *Duties of All Federal Agencies.* (a) Each Federal agency shall, to the extent permitted by law:

(1) include as part of its annual budget process a set of goals to provide the highest quality and most efficient training opportunities possible to its employees, and a set of performance measures of the quality and availability of training opportunities possible to its employees. Such measures should be, where appropriate, based on outcomes related to performance rather than time allocation;

(2) identify the resources necessary to achieve the aforementioned goals and performance measures articulated in its annual performance plan;

(3) and, where practicable, use the standards recommended by the Task Force and published by the Office of Personnel Management for purchasing training software and associated services; and

(4) subject to the availability of appropriations, post training courses, information, and other learning opportunities on the Department of Labor's America's Learning Exchange (ALX), or other appropriate information dissemination vehicles as determined by the Task Force, to make information about Federal training courses, information, and other learning opportunities widely available to Federal employees.

(b) Each Federal agency, to the extent permitted by law, is encouraged to consider how savings achieved through the efficient use of training technology can be reinvested in improved training for their employees.

Sec. 4. *Duties of Specific Federal Agencies.* (a) In light of the Office of Personnel Management's responsibility for developing Government-wide training policy, coordinating and managing training policy programs, and providing technical assistance to Federal agencies, the Office of Personnel Management or other appropriate agency as determined by the Task Force shall:

(1) in consultation with the Task Force, the Department of Defense, the National Institute of Standards and Technology, the Department of Labor, and other appropriate agencies as determined by OPM, publish the standards for training software and associated services recommended by the Task Force; and

(2) ensure that qualification standards for civil service positions, where appropriate, reflect standard industry certification practices.

(b) The Department of Labor or other appropriate agency as determined by the Task Force shall, subject to the availability of appropriations:

(1) establish a specialized database for Federal training within the framework of the Department of Labor's ALX, or other appropriate information dissemination vehicles determined by the Task Force, to make information about Federal training courses, information, and other learning opportunities widely available to Federal employees;

(2) establish and maintain a training technology website for agencies to post training needs and to foster communication among the agencies and between public and private sector organizations to identify and meet common needs; and

(3) establish a staffed help desk and technology resource center to support Federal agencies using training technology and to facilitate the development of online training courses.

(c) The Department of Defense or other appropriate agency as determined by the Task Force shall:

(1) in consultation with the National Institute of Standards and Technology, lead Federal participation in business and university organizations charged with developing consensus standards for training software and associated services and lead the Federal review of the standards; and

(2) provide guidance to Defense agencies and advise the civilian agencies, as appropriate, on how best to use these standards for large-scale development and implementation of efficient and effective distributed learning technologies.

(d) Each Executive department shall designate at least one subject area of training that it will use to demonstrate opportunities in technology-based training and assign an agency leader in the designated area. Leaders in these training technology experiments shall work closely with other agencies with similar training interests. Each Executive department shall develop a plan for measuring and evaluating the effectiveness, cost-effectiveness, and benefits to employees and the agency for each designated subject area.

Sec. 5. *Establishment of Advisory Committee on Expanding Training Opportunities.*

The Advisory Committee on Expanding Training Opportunities (Committee) is established. The Committee shall consist of not more that 20 members appointed by the President from outside the Federal Government, including representatives of the research, education, labor, and training communities, information technology sector, and representatives from other critical sectors. The President shall designate Co-Chairs from among the members of the Committee.

Sec. 6. *Functions of the Advisory Committee.* The Committee shall provide the President, through the Assistant to the President for Economic Policy and the Assistant to the President for Science and Technology (Assistants to the President), with: (a) an independent assessment of:

(1) progress made by the Federal Government in its use and integration of technology in training programs, particularly in the use of voluntary industry consensus-based commercial standards for training software and associated services;

(2) how Federal Government programs, initiatives, and policies can encourage or accelerate training technology to provide more accessible, more timely, and more cost-effective training opportunities for all Americans;

(3) mechanisms for the Federal Government to encourage private sector investment in the development of high-quality instructional software and wider deployment and utilization of technology-mediated instruction so that all Americans may take advantage of the opportunities provided by learning technology; and

(4) the appropriate Federal Government role in research and development for learning technologies and their applications in order to develop high-quality training and education opportunities for all Americans;

(b) an analysis of options for helping adult Americans finance the training and post-secondary education needed to upgrade skills and gain new knowledge. Options for financial mechanisms may include grants, tax incentives, low-interest loans, or other vehicles to make training and post-secondary education accessible to adults throughout their lifetimes; and

(c) advice on other issues regarding emerging technologies in government training and financing training and post-secondary education for adult Americans as specified by the Assistants to the President.

Sec. 7. *Administration of the Advisory Committee.* (a) To the extent permitted by law and subject to the availability of appropriations, the Office of Personnel Management shall provide the financial and administrative support for the Committee.

(b) The heads of Executive agencies shall, to the extent permitted by law, provide to the Committee such information as it may require for the purpose of carrying out its functions.

(c) The Committee Co-Chairs may, from time to time, invite experts to submit information to the Committee and may form subcommittees or working groups within the Committee to review specific issues.

(d) Members of the Committee shall serve without compensation but shall be allowed travel expenses, including per diem instead of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

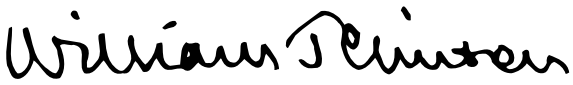
(e) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, that are applicable to the Committee, except that of reporting to the Congress, shall be performed by the Office of Personnel Management in accordance with guidelines that have been issued by the Administrator of General Services.

(f) The Committee shall terminate 2 years from the date of this order unless extended by the President prior to such date.

Sec. 8. *Definitions.* (a) As used in this order, the terms ''agency,'' ''employee,'' ''Government,'' and ''training'' have the meaning given to those terms, respectively, by section 4101 of title 5, United States Code.

(b) The term ''technology,'' means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources. For purposes of the preceding sentence, equipment is used by an Executive agency if the equipment is used by the Executive agency directly or is used by a contractor under a contract with the Executive agency that requires the use of such equipment. The term ''technology'' does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

Sec. 9. *Judicial Review.* This order does not create any enforceable rights against the United States, its agencies, its officers, or any person.



THE WHITE HOUSE,
January 12, 1999.

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Federal Register

Vol. 64, No. 10

Friday, January 15, 1999

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FEDERAL REGISTER PAGES AND DATES, JANUARY

1–384 4
385–730 5
731–984 6
985–1096 7
1097–1500 8
1501–1714 11
1715–2114 12
2115–2418 13
2419–2544 14
2545–2798 15

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12543 (See Notice of Dec. 30, 1998) 383
12544 (See Notice of Dec. 30, 1998) 383
13110 2419
13111 0000
11348 (See 13111).....0000
Administrative Orders:
Presidential Determinations:
No. 99–9 of December 24, 1998 983
Notices
December 30, 1998.....383

5 CFR

550 1501
2634 2421
2635 2421
2636 2421

7 CFR

254 1097
301 385
353 1098
801 731
930 387
982 2422
989 2425
1788 1
1951 392
Proposed Rules:
300 2151
319 2151
782 2152
981 430

9 CFR

52 2545
78 .....5, 394
301 732
317 732
318 732
320 732
381 732
Proposed Rules:
93 2449

10 CFR

Proposed Rules:
50 .....57, 432
70 1542
72 1542
430 .....1272, 1545

12 CFR

960 2550
Proposed Rules:
701 .....58, 776
713 58
715 776
741 .....58, 776

13 CFR

120 2115
Proposed Rules:
121 2153
125 2153

14 CFR

39 ...5, 395, 749, 751, 985, 987, 989, 1106, 1108, 1110, 1112, 1114, 1116, 1118, 1502, 1715, 1716, 1994, 2016, 2038, 2061, 2428, 2551, 2552, 2555, 2556, 2558, 2559, 2560
71 .....8, 9, 10, 11, 12, 13, 1716, 2119, 2120, 2562, 2563, 2565
91 1076
97 .....1717, 1724
121 .....958, 1076
125 1076
135 .....958, 1076
145 958
Proposed Rules:
39 .....435, 438, 441, 443, 445, 785, 787, 1545, 1549, 1552, 2157, 2161
71 ...60, 447, 1142, 1554, 1555, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 2449, 2450, 2452, 2453, 2605
93 2086

15 CFR

740 2429
742 2429
744 1120
748 2429
772 1120
902 13
Proposed Rules:
806 2454

16 CFR

305 926
Proposed Rules:
308 61

17 CFR

1 16
3 1725
145 24
147 24
210 1728
229 1728
240 1728
249 1728
275 2566

279 2120
405 1735

Proposed Rules:
30 1566

18 CFR

Proposed Rules:
161 789
250 789
284 789
430 1763

19 CFR

123 27
142 27
162 1122
178 27

20 CFR

Proposed Rules:
655 628
656 628

21 CFR

2 396
3 396
5 396
10 396
12 396
16 396
20 396
25 396
50 396
54 396
56 396
58 396
60 396
70 396
71 396
172 1758
173 1758
175 2567
178 34
184 ..... 404, 1758
200 396
201 396
202 396
206 396
207 396
210 396
211 396
299 396
300 396
310 396
312 396
314 396
316 396
320 396
333 396
369 396
510 396
514 396
520 ..... 396, 1503, 1761, 2121
522 396
524 396
529 396
556 1503
558 991
800 396
801 396
807 ..... 396, 1762
809 396
812 396
860 396
862 1123
892 1123

Proposed Rules:
2 448
3 448
5 448
10 448
12 448
16 448
20 448
25 448
50 448
54 448
56 448
58 448
60 448
70 448
71 448
101 1765
200 448
201 448
202 448
206 448
207 448
210 448
211 448
216 996
299 448
300 448
310 448
312 448
314 448
315 457
316 448
320 448
333 448
369 448
510 448
514 448
520 448
522 448
524 448
529 448
601 457
800 448
801 448
807 448
809 448
812 448
860 448
876 62

22 CFR

41 35

Proposed Rules:
171 789

24 CFR

5 1504

25 CFR

542 590

26 CFR

1 ..... 1125, 1505
301 2568

Proposed Rules:
1 ..... 790, 794, 805, 1143, 1148, 1571, 2164
301 ..... 1148, 2606
801 457

27 CFR

4 ..... 753, 2122
5 2122
7 2122
13 2122
19 2122

Proposed Rules:
4 813

28 CFR

Proposed Rules:
302 1082

29 CFR

1910 204
4044 2569

Proposed Rules:
2560 65

30 CFR

934 1127

Proposed Rules:
208 1930
241 1930
242 1930
243 1930
250 1930
290 1930
917 816

31 CFR

Proposed Rules:
1 1152
Ch. II 1149

32 CFR

290 1130
706 ..... 2571, 2572

33 CFR

117 ..... 35, 405, 406, 1516
165 2431

Proposed Rules:
100 66
117 1155
126 1770

36 CFR

223 406
242 1276

Proposed Rules:
13 1573

38 CFR

3 1131
20 2134

39 CFR

111 ..... 36, 2141
3001 1392

40 CFR

52 ..... 413, 415, 754, 756, 926, 992, 1517, 2141, 2573, 2575, 2577, 2581
68 964
81 992
82 1092
141 1494
180 ..... 41, 418, 759, 1132
272 2144

Proposed Rules:
52 ..... 67, 464, 465, 818, 820, 1003, 1573, 1770, 2165, 2416, 2455, 2610, 2611
60 2460
61 2460
63 ..... 1780, 1880, 2460, 2611
65 2460
81 1003
97 2416
98 2416
141 ..... 1499, 2538
180 1157
272 2166
302 1780
372 688
437 2280
745 2460

41 CFR

101–42 1139
101–43 1139
300–2 2432
300–3 2432
303 ..... L2432

42 CFR

Proposed Rules:
Ch. IV 69
409 1784
410 1784
411 1784
412 1784
413 1784
416 1785
419 1784
488 1785
498 1784
1003 1784

43 CFR

Proposed Rules:
4 1930
3100 2166
3106 2166
3130 2166
3160 2166

44 CFR

65 1521
67 1523

Proposed rules:
67 1573

45 CFR

Proposed Rules:
400 1159
401 1159

46 CFR

Proposed Rules:
249 1175
401 1585
520 2615

47 CFR

0 2149
2 2585
25 2585
54 2591
73 995
76 2595

Proposed Rules:
0 2461
1 1
2 ..... 1786, 2462
25 1786
73 2461
76 2461
90 1003

48 CFR

1201 2436
204 2595
1205 2436

1206 2436
208 2595
1211 2436
1213 ....2436, 2595
1215 2436
216 2595
217 2595
219 2595
223 2595
225 ....2595, 2599
237 2595
242 2595
246 2595
247 2595
252 ....2595, 2599
253 ....2595, 2600
1237 2436
252 2436
1253 2436
1804 1528
1871 1529
5315 995
Proposed Rules:
Ch. 3 1344
204 2617
212 2617
213 2617
252 2617
253 2617

49 CFR

1 2150
571 2446
653 425
654 425
Proposed Rules:
171 ....70, 1789
177 70
178 70
180 70
230 1791

50 CFR

18 1529
23 769
100 1276
300 13
600 1316
648 ....427, 1139, 2600, 2601
660 ....45, 1316
679 ....46, 50, 427, 428, 1539
Proposed Rules:
17 ....821, 2167
20 ....821, 822
21 822
227 465
622 2620
648 ....471, 823, 2466
649 2708
660 ....823, 1341, 2467
697 2708

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 15, 1999

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Hazelnuts grown in—
- Oregon and Washington; published 1-14-99

DEFENSE DEPARTMENT

Acquisition regulations:
- DOD contractors; supplies and services order form; instructions update; published 1-15-99
- Para-aramid fibers and yarns; published 1-15-99
- Simplified acquisition procedures; published 1-15-99

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste:
- State underground storage tank program approvals—
  - Tennessee; published 11-17-98

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Federal-State Joint Board on Universal Service—
  - Rural health care universal service support mechanism; funding year change from calendar to fiscal year cycle; published 1-15-99

Television broadcasting:
- Telecommunications Act of 1996; implementation—
  - Digital television spectrum ancillary or supplementary use by DTV licensees; fees; published 12-16-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:
- Adhesive coatings and components—
  - Silver chloride-coated titanium dioxide; published 1-15-99

SECURITIES AND EXCHANGE COMMISSION

Investment advisers:
- Advisers between Commission and States; reallocation of responsibilities; and transactions not deemed assignments; technical corrections; published 1-15-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Boeing; published 12-31-98
- British Aerospace; published 10-14-98

TREASURY DEPARTMENT

Internal Revenue Service

Procedure and administration:
- Timely mailing treated as timely filing/electronic postmark; published 1-15-99¶

RULES GOING INTO EFFECT JANUARY 19, 1999

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:
- Women, infants, and children; special supplemental nutrition program—
  - Healthy Meals for Healthy Americans Act, Pro-Children Act, etc.; nondiscretionary incorporated provisions; published 11-18-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Northeast multispecies; published 1-15-99

ENVIRONMENTAL PROTECTION AGENCY

Air programs:
- Fuels and fuel additives—
  - Reformulated gasoline program; alternative analytical test methods and specifications for mixing chamber associated with animal toxicity testing; published 11-17-98

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Alabama; published 11-18-98

Air programs; State authority delegations:
- Arizona; published 11-18-98

Air quality implementation plans; approval and promulgation; various States:
- Alaska; published 11-18-98
- Washington; published 11-19-98

Hazardous waste program authorizations:
- Idaho; published 10-21-98

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:
- Experimental radio service rules; published 11-19-98

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Electronic data interchange transactions; evidence of shipment; published 12-18-98

GOVERNMENT ETHICS OFFICE

Standards of ethical conduct for executive branch employees; published 12-18-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- New drug applications—
  - Monensin and tylosin; published 1-19-99

Food additives:
- Adjuvants, production aids, and sanitizers—
  - Di-tert-butyl-m-cresyl phosphonite condensation product with biphenyl; published 1-19-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- St. Andrew beach mouse; published 12-18-98

LABOR DEPARTMENT

Nationwide employment statistics system; election process for State agency representatives for consultations with Labor Department; published 12-18-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Electronic data interchange transactions; evidence of shipment; published 12-18-98

POSTAL SERVICE

International Mail Manual:
- Global Direct—Canada Admail service; published 1-19-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
- Bumper standard; temporary exemption; published 1-19-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Mexican fruit fly; comments due by 1-19-99; published 11-20-98

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:
- Women, infants, and children; special supplemental nutrition program—
  - Bloodwork requirements; comments due by 1-19-99; published 11-19-98

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:
- India and Pakistan; exports and reexports of items controlled for nuclear nonproliferation and missile technology; sanctions; comments due by 1-19-99; published 11-19-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Northeastern United States fisheries—
  - Atlantic sea scallop; comments due by 1-19-99; published 11-18-98
- West Coast States and Western Pacific fisheries—
  - Bottomfish and seamount groundfish; comments

due by 1-19-99; published 11-18-98
Marine mammals:
Endangered fish or wildlife—
Cook Inlet beluga whales; status review; comments due by 1-19-99; published 11-19-98

DEFENSE DEPARTMENT
Acquisition regulations:
Federal procurement; affirmative action reform; comments due by 1-19-99; published 11-20-98

ENERGY DEPARTMENT
Acquisition regulations:
Management and operating contracts; financial management clauses; comments due by 1-19-99; published 11-18-98

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural Gas Policy Act:
Interstate natural gas pipelines—
Business practice standards; comments due by 1-22-99; published 12-23-98
Short-term transportation services regulation; comments due by 1-22-99; published 10-16-98

ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Tennessee; comments due by 1-19-99; published 12-18-98
Air quality implementation plans; approval and promulgation; various States:
California; comments due by 1-20-99; published 12-21-98
Maine; comments due by 1-19-99; published 12-17-98
Missouri; comments due by 1-21-99; published 12-22-98
New Hampshire; comments due by 1-19-99; published 12-17-98
South Carolina; comments due by 1-19-99; published 12-18-98
Tennessee; comments due by 1-21-99; published 12-22-98
Air quality planning purposes; designation of areas:
Massachusetts et al.; comments due by 1-19-99; published 12-17-98
Superfund program:
National oil and hazardous substances continency plan—
National priorities list update; comments due by 1-22-99; published 12-23-98

FARM CREDIT ADMINISTRATION
Farm credit system:
Federal regulatory review; comments due by 1-19-99; published 11-18-98

FEDERAL COMMUNICATIONS COMMISSION
Radio and television broadcasting:
Broadcast and cable EEO rules and policies; comments due by 1-19-99; published 12-1-98
Radio services, special:
Mobile satellite services; 2 GHz spectrum allocation; comments due by 1-19-99; published 12-17-98
Private land mobile services—
700 MHz band; public safety radio spectrum; priority access service requirements; comments due by 1-19-99; published 1-7-99
Radio stations; table of assignements:
Minnesota; comments due by 1-19-99; published 12-14-98
Radio stations; table of assignments:
Louisiana; comments due by 1-19-99; published 12-7-98

FEDERAL MARITIME COMMISSION
Ocean freight forwarders, marine terminal operations, and passenger vessels:
Marine terminal operator schedules; comments due by 1-19-99; published 12-17-98
Ocean transportation intermediaries; licensing, financial responsibility requirements and general duties; comments due by 1-21-99; published 12-22-98
Tariffs and service contracts:
Carrier automated tariff systems; comments due by 1-20-99; published 12-21-98
Service contract filings; comments due by 1-22-99; published 12-23-98

FEDERAL RESERVE SYSTEM
Consumer leasing (Regulation M):
Lease advertisements, multiple-item leases, renegotiations and extensions and estimates of official fees and taxes; disclosures; comments due by 1-22-99; published 12-7-98
Truth in lending (Regulation Z):
Calculation of payment schedules involving private mortgage insurance, etc.; comments due by 1-22-99; published 12-7-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Food additives:
Adhesive coatings and components—
Dimethylpolysiloxane coatings; comments due by 1-22-99; published 12-23-98
Food for human consumption:
Beverages—
Fruit and vegetable juices and juice products; HACCP procedures for safe and sanitary processing and importing; comments due by 1-19-99; published 12-17-98
Human drugs:
Sunscreen drug products (OTC); tentative final monograph; enforcement policy; comments due by 1-20-99; published 10-22-98

INTERIOR DEPARTMENT
Reclamation Bureau
Farm operations in excess of 960 acres, information requirements; and formerly excess land eligibility to receive non-full cost irrigation water; comments due by 1-19-99; published 11-18-98

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 1-22-99; published 12-23-98

LIBRARY OF CONGRESS
Copyright Office, Library of Congress
Copyright arbitration royalty panel rules and procedures:
Royalty distribution and rate adjustment proceedings; conduct; comments due by 1-19-99; published 12-18-98

PERSONNEL MANAGEMENT OFFICE
Allowances and differentials:
Cost-of-living allowances (nonforeign areas)
Honolulu, HI; comments due by 1-19-99; published 10-21-98
Employment:
Firefighter pay and training; comments due by 1-22-99; published 11-23-98

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Louisiana; comments due by 1-19-99; published 11-18-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Aircraft:
Noise standards—
Propeller-driven small airplanes; comments due by 1-19-99; published 11-18-98
Airworthiness directives:
Airbus; comments due by 1-19-99; published 12-17-98
Bell Helicopter; comments due by 1-22-99; published 11-23-98
Bombardier; comments due by 1-20-99; published 12-21-98
Cessna; comments due by 1-22-99; published 12-3-98
Eurocopter Deutschland GmbH; comments due by 1-19-99; published 11-19-98
Class B airspace; comments due by 1-19-99; published 11-18-98

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Engineering and traffic operations:
Truck size and weight—
Nondivisible load or vehicle definition modification to include marked military vehicles; comments due by 1-19-99; published 11-20-98

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Partnership returns required on magnetic media; comments due by 1-21-99; published 10-23-98

TREASURY DEPARTMENT

Privacy Act; implementation; comments due by 1-22-99; published 12-23-98