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Friday
November 26, 1999

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Contents

Federal Register

Vol. 64, No. 227

Friday, November 26, 1999

Agricultural Marketing Service
PROPOSED RULES
Onions grown in—
Texas, 66411–66413

Agriculture Department
See Agricultural Marketing Service
See Forest Service
NOTICES
Meetings:
National Nutrition Summit, 66451

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Diamond Mountain, CA, 66433–66434

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Harsco Corp. et al., 66492–66500

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Surveys, determinations, etc.:
Company organization, 66452
Manufacturing area; annual, 66452–66454

Chemical Safety and Hazard Investigation Board
NOTICES
Meetings; Sunshine Act, 66452

Children and Families Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66479

Coast Guard
PROPOSED RULES
Outer Continental Shelf activities:
Platforms in Gulf of Mexico; safety zone, 66434–66436

Commerce Department
See Census Bureau
See Export Administration Bureau
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Commodity Futures Trading Commission
RULES
Contract markets:
Contract market designations applications—
Commission review and approval; procedures, 66373–66381
PROPOSED RULES
Contract markets:
Contract market designation applications—
Fee schedule, 66432–66433
Contract market rule review procedures, 66428–66432

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 66459

Copyright Office, Library of Congress
RULES
Copyright office and procedures:
Nonsubscription digital transmissions; notice and recordkeeping requirements
Filing date extension, 66391–66392

Corporation for National and Community Service
RULES
Government in Sunshine Act; implementation, 66402–66405

Defense Department
See Engineers Corps
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66459–66460
Arms sales notification; transmittal letter, etc., 66460–66463
Meetings:
Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction Advisory Panel, 66464

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66465

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determinations, 66503–66504

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Mill Creek, OH; local flood protection project general reevaluation report, 66464

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 66393–66396
Solid wastes:
Disposal facilities and practices; classification criteria; reporting and recordkeeping requirements, 66392–66393

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 66441–66442
NOTICES
Committees; establishment, renewal, termination, etc.:
FIFRA Scientific Advisory Panel, 66468–66473
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 66473–66474
Weekly receipts, 66474
Pesticide registration, cancellation, etc.:
Mycogen Seeds et al., 66474–66476

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Microprocessors controlled by ECCN 3A001 and graphics accelerators controlled by ECCN 4A003; License Exception CIV eligibility level expansion, 66372–66373

Export-Import Bank
NOTICES
Meetings:
Advisory Committee, 66476

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 66368–66370, 66361–66364
General Electric Co., 66366–66368
Pilatus Aircraft Ltd., 66365–66366
PROPOSED RULES
Airworthiness directives:
Boeing, 66426–66428, 66419–66422
British Aerospace, 66424–66426
Dornier, 66422–66424, 66418–66419
General Electric Co., 66415–66416
McDonnell Douglas, 66417–66418
Class E airspace; correction, 66528
NOTICES
Aviation Rulemaking Advisory Committee; task assignments, 66522–66524
Meetings:
General aviation summit; U.S. general aviation aircraft; fleet airworthiness, 66524–66525
Passenger facility charges; applications, etc.:
Greater Peoria Regional Airport, IL, 66525
Rhinelander-Oneida County Airport, WI, 66525–66526

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
Dedicated short range communications of intelligent transportation services, 66405–66410
PROPOSED RULES
Common carrier services:
Local exchange carrier price cap productivity offset (X-factor); prescription, 66442–66447

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 66476–66477

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Lake Dorothy Hydro Inc., 66466
Hydroelectric applications, 66465–66467
Practice and procedure:
Off-the-record communications, 66467
Applications, hearings, determinations, etc.:
PG&E Gas Transmission, Northwest Corp., 66465

Federal Maritime Commission
NOTICES
Complaints filed:
Cargo One, Inc., 66477

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 66477
Formations, acquisitions, and mergers, 66477–66478
Formations, acquisitions, and mergers; correction, 66477

Food and Drug Administration
RULES
Airworthiness directives:
Boeing, 66370–66372
Animal drugs, feeds, and related products:
Lincomycin soluble powder, 66382
Sulfamethazine tablets, 66382–66383
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66479–66480
Food additive petitions:
Ciba Specialty Chemicals Corp., 66480
Meetings:
Medical Devices Advisory Committee, 66480–66481
Reports and guidance documents; availability, etc.:
Nucleic acid testing of pooled plasma; application of current statutory authority; industry guidance, 66481–66482

Forest Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Land Between the Lakes Advisory Board, 66451–66452

General Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66478–66479

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
NOTICES
Meetings:
National Nutrition Summit, 66451

Health Care Financing Administration
RULES
Medicare:
Methods to improve Medicare efficiency; suggestion program establishment, 66396–66402
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66482

Housing and Urban Development Department
PROPOSED RULES
Housing programs:
Uniform physical condition standards and physical inspection requirements; insured and assisted properties; administrative process assessment, 66529–66540
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 66485–66488

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Coushatta Tribe of Louisiana, 66488
Spirit Lake Tribe, ND, 66488
Tunica-Biloxi Indian Tribe, LA, 66488

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Justice Department
See Antitrust Division
See National Institute of Corrections
NOTICES
Pollution control; consent judgments:
Aronowitz, Jack L., et al., 66491–66492
East Charleston & Fogg et al., 66491

Labor Department
See Employment Standards Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Transit Mixed Concrete Co. Sand and Gravel Mining Project, CA, 66490
Wyodak Coalbed Methane Project, WY, 66488
Environmental statements; notice of intent:
Pompeys Pillar National Historic Landmark, MT, interpretive center and other facilities construction, 66489
Motor vehicle use restrictions:
Colorado, 66490–66491
Recreation mangement restrictions, etc.:
Public lands, WY; camping stay limits, 66491
Resource management plans, etc.:
Red Hill Area, CO, 66489–66490

Library of Congress
See Copyright Office, Library of Congress

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 66504–66506

National Credit Union Administration
RULES
Credit unions:
Credit union service organizations—
Real estate brokerage services; grandfather exemption, 66360–66361
Management official interlocks; clarification and statutory changes conformation, 66356–66360
Truth in Savings Act—
Statement disclosures; delivery in electronic form, 66355–66356
PROPOSED RULES
Credit unions:
Insurance and group purchasing activities; incidental authorities, 66413–66415
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66507
Submission for OMB review; comment request, 66506–66507
Organization, functions, and authority delegations:
Point of contact for credit unions regarding compliance problems arising from Year 2000 (Y2K) failures, 66507

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 66508

National Highway Traffic Safety Administration
PROPOSED RULES
Vehicles built in two or more stages; negotiated rulemaking advisory committee establishment and meeting, 66447–66449

National Institute of Corrections
NOTICES
Grants and cooperative agreements; availability, etc.:
Effective prison mental health services program, 66500–66502
Management training curriculum development program, 66502–66503

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 66483
National Institute of General Medical Sciences, 66483
National Institute of Mental Health, 66483–66484
Scientific Review Center, 66484–66485
Patent licenses; non-exclusive, exclusive, or partially exclusive:
NeoPharm, Inc., 66482–66483

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico Fishery Management Council; meetings, 66449–66450
NOTICES
Grants and cooperative agreements; availability, etc.:
Ocean Remote Sensing Program, 66454–66457
Meetings:
Caribbean Fishery Management Council, 66457
Permits:
Endangered and threatened species, 66458

National Science Foundation
NOTICES
Meetings:
Astronomical Sciences Special Emphasis Panel, 66508–66509
Biological Sciences Special Emphasis Panel, 66509

Research, Evaluation, and Communication Special Emphasis Panel, 66509
U.S. National Assessment Synthesis Team, 66509

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 66509

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Power Authority of State of New York, 66509–66512
Umetco Minerals Corp., 66512–66513
Meetings:
Baseline safety inspection program for nuclear fuel cycle facilities; revision; workshop, 66513–66514

Patent and Trademark Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66458–66459

Pension Benefit Guaranty Corporation
RULES
Premium payments:
Self-correction of premium underpayments, 66383–66385

Postal Rate Commission
PROPOSED RULES
International mail services; cost, revenue, and volume data analysis, 66436–66441
NOTICES
Domestic mail classifications and rates:
Mailing online experimental classification proceeding, 66514–66516

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Railroad Retirement Board
RULES
Emergency regulations:
Plan of operation during national emergency; procedures update, 66381–66382
PROPOSED RULES
Railroad Retirement Act:
Evidence required for payment, 66433
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66516

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Deregistration applications—
Berwyn Fund, Inc., et al., 66517
Exemption applications—
First Australia Prime Income Fund, Inc., et al., 66517–66519
OLDE Asset Management, Inc., 66520–66522
SunAmerica Asset Management Corp. et al., 66519–66520
Meetings; Sunshine Act, 66522
Self-regulatory organizations; proposed rule changes:
Philadelphia Stock Exchange, Inc.; correction, 66528

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Iowa, 66385–66391

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Transportation Statistics Bureau

Transportation Statistics Bureau
NOTICES
Meetings:
Transportation Statistics Advisory Council, 66526

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66526–66527

Separate Parts In This Issue

Part II
Department of Housing and Urban Development, 66529–66540

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.

7 CFR

Proposed Rules:
959 66411

12 CFR
707 66355
711 66356
712 66360

Proposed Rules:
721 66413

14 CFR
39 (5 documents) 66361, 66365, 66366, 66368, 66370

Proposed Rules:
39 (7 documents) 66415, 66417, 66418, 66419, 66422, 665424, 66426
71 66528

15 CFR
774 66372

17 CFR
5 66373

Proposed Rules:
1 (2 documents) 66428, 66432
5 66432
31 66432

20 CFR
375 66381

Proposed Rules:
219 66433

21 CFR
520 (2 documents) 66382, 66382

24 CFR

Proposed Rules:
5 66530
200 66530

27 CFR

Proposed Rules:
9 66433

29 CFR
4007 66383

30 CFR
915 66395

33 CFR

Proposed Rules:
147 66434

37 CFR
201 66391

39 CFR

Proposed Rules:
3001 66436

40 CFR
9 66392
52 66393
257 66392

Proposed Rules:
52 66441

42 CFR
420 66396

45 CFR
2505 66402

47 CFR
2 66405
90 66405

Proposed Rules:
61 66442

49 CFR

Proposed Rules:
567 66447
568 66447

50 CFR

Proposed Rules:
622 66449

Rules and Regulations

Federal Register
Vol. 64, No. 227
Friday, November 26, 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.

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: NCUA is amending its regulations that implement the Truth in Savings Act (TISA). This interim rule allows credit unions to deliver in electronic form periodic statement disclosures required by NCUA's regulations if the member agrees to this form of delivery.

DATES: This rule is effective November 26, 1999. Comments must be received on or before January 25, 2000.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. You may also fax comments to (703) 518–6319 or e-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

Part 707 of NCUA's regulations implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among share accounts offered by credit unions. Part 707 and TISA require, among other things, disclosure of yields, fees and other terms concerning share accounts to members at account opening, upon request, when changes in terms occur and in periodic statements. Many of these disclosures must be written. Many laws that require information to be in writing consider information in electronic form to be written. Information produced, stored, or communicated by computer is also generally considered to be a writing, where visual text is involved.

The Board of Governors of the Federal Reserve System (Federal Reserve) has issued an interim rule that allows depository institutions to deliver periodic statement disclosures required by its Regulation DD in electronic form if the consumer agrees to this form of delivery. 64 FR 49846 (September 14, 1999). In doing so, the Federal Reserve has stated that electronic delivery of these kind of disclosures will reduce paperwork and costs for institutions and may benefit consumers by allowing them to receive their periodic account statements, including required disclosures, more quickly and in a more convenient form.

The Federal Reserve's interim rule does not permit a depository institution to deliver periodic statement disclosures electronically unless the consumer agrees to this method of delivery, but does not specifically discuss what constitutes a valid agreement between the consumer and depository institution. The Federal Reserve has stated that whether the parties have an agreement would be determined by state law, but does not intend to require a formal contract. It has also stated that consumers should be clearly informed when they are consenting to electronic delivery of periodic statements and disclosures. The Federal Reserve has further stated that the periodic statement must be provided in a form that can be displayed as visual text and must be clear and conspicuous and in a form that the consumer can retain.

The Federal Reserve's interim rule applies only to periodic statement disclosures. Other disclosures required by TISA and Regulation DD may not be delivered in electronic form. The Federal Reserve, however, has issued a proposal addressing electronic delivery of these other disclosures. 64 FR 49740 (September 14, 1999).

TISA requires NCUA to promulgate regulations substantially similar to those promulgated by the Federal Reserve. 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts. NCUA's interim rule is substantially similar to that issued by the Federal Reserve.

Interim Final Rule

The NCUA Board is issuing this rule as an interim final rule because there is a strong public interest in having in place consumer oriented rules that are consistent with those promulgated by the Federal Reserve. Additionally, NCUA is required to issue rules substantially similar to those issued by the Federal Reserve within ninety days of the effective dates of the Federal Reserve's rules. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rule shall be effective immediately and without 30 days advance notice of publication. Although the rule is being issued as an interim final rule and is effective immediately, the NCUA Board encourages interested parties to submit comments.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets.

The NCUA has determined and certifies that this interim rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendments to part 707 provide credit unions with an optional and alternative method of delivering certain required disclosures. Credit unions are free to choose not to utilize this alternative. Other credit unions, who choose to use this alternative, will likely realize a reduction in their costs of delivery as a result. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendments to part 707 do not increase

paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: ''Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.'' This interim rule will not have a direct effect 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. NCUA has determined that this interim rule does not constitute a significant regulatory action for purposes of the executive order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget is reviewing this rule. We are awaiting its determination whether this is a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 707

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 707 is amended as follows:

PART 707—TRUTH IN SAVINGS

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

2. Section 707.6 is amended by revising the heading and adding a new paragraph (c) to read as follows:

§ 707.6 Periodic statement disclosures.

* * * * *

(c) *Electronic communication.* (1) *Definition.* The term ''electronic communication'' means a message transmitted electronically between a member and a credit union in a format that allows visual text to be displayed on equipment such as a personal computer monitor.

(2) *Electronic communication between credit union and member.* A credit union and a member may agree that the credit union will send by electronic communication periodic statement disclosures required by § 707.6. Periodic statement disclosures sent by electronic communication to a member must comply with § 707.3 and any applicable timing requirements contained in this part.

[FR Doc. 99–30691 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 711

Management Official Interlocks

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) revises its rule regarding management interlocks. The final rule conforms to recent statutory changes, modernizes and clarifies the rule, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements. The final rule was drafted through a coordinated effort among the following other federal financial regulatory agencies: the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), (collectively ''the banking agencies'').

EFFECTIVE DATE: This rule is effective January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

The Depository Institution Management Interlocks Act (12 U.S.C. 3201–3208) (the Interlocks Act) generally prohibits financial institution management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies (depository organizations). The Interlocks Act exempts interlocking arrangements between credit unions and, therefore, in the case of credit unions, only restricts interlocks between credit unions and other institutions—banks and thrifts and their holding companies.

The scope of the prohibition depends on the size and location of the involved organizations. For instance, the Interlocks Act prohibits unaffiliated depository organizations, regardless of size, from establishing an interlock if both organizations have an office in the same community (the community prohibition). Unaffiliated depository organizations may not form an interlock if both organizations have total assets of $20 million or more and are located in the same Relevant Metropolitan Statistical Area (RMSA) (the RMSA prohibition). The Interlocks Act also prohibits unaffiliated depository organizations, regardless of location, from establishing an interlock if each organization has total assets exceeding specified thresholds (the major assets prohibition).

Section 2210 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPR Act) amended §§ 204, 206, and 209 of the Interlocks Act (12 U.S.C. 3203, 3205 and 3207).[1] Section 2210(a) of the EGRPR Act amended the Interlocks Act by changing the thresholds for the major assets prohibition under 12 U.S.C. 3203. Prior to the EGRPR Act, management officials of depository organizations with total assets exceeding $1 billion were prohibited from serving as management officials of unaffiliated depository organizations with assets exceeding $500 million, regardless of the location of the organizations or their depository institution affiliates.[2] The EGRPR Act raised the thresholds to $2.5 billion and $1.5 billion, respectively. The revision also authorized NCUA to adjust the thresholds by regulation, as necessary to allow for inflation or market conditions.

Section 2210(b) of the EGRPR Act permanently extended the grandfather and diversified savings and loan holding company exemptions in 12 U.S.C. 3205. Prior to the EGRPR Act, these exemptions were subject to a 20-year time limit beginning November 10,

[1] The OCC, the Board, the FDIC, and the OTS, (collectively, the Agencies) recently published final rules similar to NCUA to implement the EGRPR Act. 51673 (September 24, 1999).

[2] The Agencies, and NCUA, define ''total assets'' of diversified savings and loan holding companies and bank holding companies exempt from § 4 of the Bank Holding Company Act to include only the assets of their depository institution affiliates. *See* 12 CFR 26.2(r), 212.2(q), 348.2(q), 348.2(q), 711.2(r), and 563f.(r).

1978. The EGRPR Act amended sec. 3205(a) to permit persons who began dual service as management officials of more than one depository organization before November 10, 1978, to continue such service indefinitely. Similarly, sec. 3205(b) was amended to permit a person who serves as a management official of a depository organization and of a company that is not a depository holding company to continue to serve as an official of both entities indefinitely if the non-depository organization becomes a diversified savings and loan holding company. The EGRPR Act also repealed sec. 3205(c). That provision, which mandated agency review of grandfathered interlocks before March 1995, became outdated.

The EGRPR Act also amended 12 U.S.C. 3207 to provide that NCUA may adopt ''regulations that permit service by a management official that would otherwise be prohibited by [the community, RMSA, or major assets prohibitions], if such service would not result in a monopoly or substantial lessening of competition.'' This change repealed the specific ''regulatory standards'' and ''management consignment'' exemptions added by the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act),[3] and restored the NCUA's broad authority to create regulatory exemptions to the statutory prohibitions on interlocks.

II. The Proposal

On October 29, 1998, NCUA published a notice of proposed rulemaking (the proposal) to implement these statutory changes. 63 FR 57945, October 29, 1998. The proposal also renewed an earlier proposal for a small market share exemption that had been advanced by the FRB, OCC and FDIC before enactment of the CDRI Act.

III. The Final Rule and Comments Received

NCUA received four comments, all in favor of the proposal. Several commenters emphasized the importance of coordination among NCUA and the banking agencies. Most of the proposed changes received either no comments or uniformly favorable comments. Accordingly, NCUA has adopted the proposal with only one minor change. The following discussion summarizes the amendments to NCUA's management interlocks rule and the comments received.

A. Definitions

Current NCUA regulations define key terms implementing the Interlocks Act. A number of these definitions were added or revised in 1996 to implement the CDRI Act. With the repeal of the specific exemptive standards in the CDRI Act, two of these definitions have become unnecessary and can be removed. NCUA received no comments on the proposed elimination of these terms and therefore adopts this provision as proposed.

B. Major Assets Prohibition

Prior to the EGRPR Act, a management official of a depository organization (or its affiliates) having total assets exceeding $1 billion could not serve as a management official of any depository organization with total assets exceeding $500 million (or its affiliates) regardless of location. The EGRPR Act revised the asset thresholds for the major assets prohibition from $1 billion and $500 million to $2.5 billion and $1.5 billion, respectively. The legislation also authorized the NCUA to adjust the threshold from time to time to reflect inflation or market changes.

NCUA proposed to amend the regulations to reflect the new threshold amounts, and to add a mechanism providing for periodic adjustments of the thresholds. The adjustment would be based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (the Consumer Price Index). In years when changes in the Consumer Price Index would change the thresholds by more than $100 million, NCUA, along with the banking agencies, will announce the change by a final rule without notice or opportunity for comment published in the **Federal Register**. For those years in which changes in the Consumer Price Index would not change the thresholds by more than $100 million, NCUA and the banking agencies will not adjust the threshold. NCUA, however, wishes to clarify that if the threshold is not adjusted to reflect a Consumer Price Index change in any given year, the change for that year will be considered in computing adjustments to the threshold in subsequent years. NCUA also invited comment on the types of market changes that may warrant subsequent adjustments to the major assets prohibition.

One commenter expressed support for the proposal to periodically adjust the thresholds based on the Consumer Price Index, but admonished NCUA to coordinate any changes with the banking agencies to ensure that all supervisory agencies are using a consistent standard. NCUA agrees that such coordination among it and the banking agencies will ensure consistency in the standard. NCUA intends to coordinate with the banking agencies on such adjustments, just as it has coordinated these changes to the rule. Accordingly, NCUA adopts the mechanism providing for periodic adjustments of the thresholds set forth in the proposal without any changes.

C. Regulatory Standards and Management Consignment Exemptions

The current regulations contain Regulatory Standards and Management Consignment exemptions which were predicated on sec. 3207 of the Interlocks Act. The EGRPR Act removed the specific exemptions from the Interlocks Act and substituted a general authority for the Agencies to create exemptions by regulation. Accordingly, the proposal recommended removal of these regulatory exemptions. NCUA received no comment on this provision. NCUA finds the removal of the exemptions appropriate in light of their statutory repeal and therefore adopt this provision as set forth in the proposal without any changes.

D. General Exemptive Authority

Section 2210(c) of the EGRPR Act authorizes NCUA to adopt regulations permitting service by a management official that would otherwise be prohibited by the Interlocks Act, if such service would not result in ''a monopoly or substantial lessening of competition.'' To implement this authority, NCUA proposed to exempt otherwise prohibited management interlocks where the dual service would not result in a monopoly or substantial lessening of competition and would not otherwise threaten safety and soundness. The process for obtaining such exemptions will be set out in an NCUA directive to credit unions.

Since 1979, when regulations implementing the Interlocks Act were first promulgated, NCUA has recognized that interlocks involving certain classes of depository organizations present a reduced risk to competition, and that, by enlarging the pool of management available to such organizations, competition could be enhanced. Thus, in the initial interlocks rules published in 1979, NCUA reserved the authority to permit interlocks to strengthen newly-chartered organizations, troubled organizations, organizations in low- or moderate-income areas and organizations controlled or managed by

[3] NCUA adopted final regulations implementing the management interlocks provision of the CDRI Act, effective October 1, 1996. *See* 61 FR 50702, September 27, 1996. The banking agencies also adopted final regulations implementing the management interlocks provisions of the CDRI Act, effective October 1, 1996. *See* 61 FR 40293. August 2, 1996.

minorities or women. The authority to permit interlocks in such circumstances was deemed ''necessary for the promotion of competition over the long term.'' *See* 44 FR 42161, 42165 (July 19, 1979). Prior to the CDRI Act, these exemptions were granted to meet the need for qualified management. The Management Consignment exemption under the CDRI Act was generally available to the same four classes of organizations, but on a more limited basis.

With the EGRPR Act's restoration of the broad exemptive authority under the Interlocks Act, NCUA again has authority to grant exemptions that will not adversely affect competition. NCUA believes that interlocks involving the four classes of organizations previously identified may provide management expertise needed to enhance the ability of the organizations to compete. Accordingly, NCUA proposed to establish a rebuttable presumption that an interlock would not result in a monopoly or substantial lessening of competition, if: (1) The depository organization is located in, and primarily serves, low-or moderate-income areas; (2) the depository organization is controlled or managed by members of a minority group or women; (3) the depository institution is newly-chartered; or (4) the depository institution, or in the case of a depository organization, a depository institution under its control, is deemed to be in ''troubled condition'' under regulations implementing sec. 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). 12 U.S.C. 1831i.

A claim that factors exist giving rise to a presumption does not preclude NCUA from denying a request for an exemption if NCUA finds, based on available materials, that the presumption is rebutted. That is, an exemption request may be denied if NCUA determines that the interlock would result in a monopoly or substantial lessening of competition. The presumptions are designed to provide greater flexibility to classes of organizations that may have greater need for seasoned management, but the presumptions are rebuttable because NCUA recognizes that such needs can only be met in a manner that is consistent with the statute.

The definitions of ''area median income'' and ''low- and moderate-income areas'' added to the regulations in 1996 to implement the CDRI Act amendments are being retained to provide guidance as to when an organization would qualify for one of the presumptions. Interlocks that are based on the presence of a rebuttable presumption would be allowed to continue for three years, unless otherwise provided in the approval order. Nothing in the proposed rule would prevent an organization from applying for an extension of an interlock exemption granted under a presumption if the factors continued to apply. The organizations would also be free to utilize any other exemption that may be available.

NCUA also proposed that any other interlock approved under this section be allowed to continue unless it becomes anticompetitive, unsafe or unsound, or is subject to a condition requiring termination at a specific time.

One commenter supported the general exemption and stated that the presumptions in the proposal were suitable, but cautioned that any request for an interlock extension beyond three years should be closely scrutinized. NCUA recognizes that the permitted interlocks are exceptions to the rule and will assess the need for such service on a case-by-case basis. NCUA is adopting the proposed section with no changes.

E. Small Market Share Exemption

In 1994, the OCC, FDIC, and FRB published notices of proposed rulemaking seeking comment on a proposed market share exemption. The proposed exemption would have been available for interlocks involving institutions that, on a combined basis, would control less than 20% of the deposits in a community or relevant MSA. These agencies published small market share exemption proposals pursuant to the broad exemptive authority vested in the agencies prior to the CDRI Act. Because the CDRI Act restricted the agencies' broad rulemaking authority, the OCC, FDIC, and FRB withdrew their proposals.[4] The broad exemptive authority under the EGRPR Act again authorizes the small market share exemption. Accordingly, NCUA joins the banking agencies in renewing the proposal for the small market share exemption.

The Interlocks Act, by discouraging common management among financial institutions, seeks to prevent unaffiliated institutions from having an adverse impact on competition in the products and services they offer. Where depository institutions dominate a large portion of the market, these risks are significant. When a particular market is served by many institutions, however, the risks diminish that depository institutions with interlocking relationships can adversely affect the products and services available in their markets.

NCUA's proposal stated that the combination of the shares and deposits of two institutions would provide a meaningful assessment of the capacity of the two institutions to control credit and related services in their market. Accordingly, NCUA proposed to exempt interlocking service involving two unaffiliated depository organizations that together control no more than 20% of the shares and deposits in any RMSA or community, as appropriate. Organizations claiming the exemption would be required to determine the market share in each RMSA and community in which both depository organizations (or affiliates) are located. Under the proposal, to determine their eligibility for the exemption, depository organizations would need to obtain appropriate share and deposit data from NCUA and appropriate deposit data from the FDIC.

NCUA received two comments in support of the small market share exemption, one emphasizing that the rule must conform to that of the other banking agencies and another emphasizing the importance that deposits in all insured financial institutions, banks, thrifts and credit unions, be included in the calculation. The banking agencies proposed that depository organizations rely only on bank and thrift data collected by the FDIC in its Summary of Deposits to determine eligibility for the small market share exemption. NCUA proposed that the bank and thrift data from the Summary of Deposits be combined with credit union data from NCUA to calculate total assets in a given market and market share. Both the Summary of Deposits, and the NCUA data are readily accessible on the Internet and each permits the user to search for deposit and asset data by city, state and zip code. However, the FDIC database reports deposit and asset information by an institution's branch location, while NCUA's database does not. NCUA does not collect information from credit unions on a branch by branch basis; rather it attributes all share, deposit and asset information to a credit union's main branch. If credit union data were included in the calculation of total assets in a community, the figure may be inaccurate. For example, in a community where the main branch of a

[4] *See* OCC, 59 FR 29740 (June 9, 1994), FDIC, 59 FR 18764 (April 20, 1994), and FRB, 59 FR 7909 (February 17, 1994) for proposals prior to CDRI Act. Following enactment of the CDRI Act these proposals were withdrawn; 60 FR 67424 (December 29, 1995) for withdrawal by OCC and FRB; and 60 FR 7139 (February 7, 1995) for withdrawal by the FDIC.

large credit union is located, the credit union assets would artificially inflate the market calculations. At the same time, the calculations in a nearby community where the large credit union has a branch location would be artificially low.

The banking agencies believe that the deposit data maintained in the FDIC's Summary of Deposits provides a reliable approximation of the market for a given location. NCUA agrees. To the extent that credit unions hold a significant amount of the total deposits in a given market, this information may be used to demonstrate that an interlock will not result in a monopoly or substantial lessening of competition under the general exemption. This approach is consistent with the banking agencies' treatment of credit union shares in the merger context, where the banking agencies consider credit union shares as one of many mitigating factors if a merger transaction exceeds a specified threshold. Accordingly, for the sake of consistency and to permit all depository organizations to use a more accurate method of calculating market share, in the final rule, NCUA has eliminated the requirement that credit union shares be included in the calculation of market share, and instead permits the reliance on the Summary of Deposits data only. Organizations claiming the exemption must determine the market share in each RMSA and community in which both depository organizations (or their depository institution affiliates) have offices. The relevant market used for the small market share exception (that is, the RMSAs or communities in which both depository organizations or their depository institution affiliates have offices) are the same markets described in the community and RMSA prohibitions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

The small market share exemption would continue to apply as long as the organizations meet the applicable conditions. Any event that causes the level of deposits controlled to exceed 20% of deposits in any RMSA or community, such as expansion or a merger, would be considered to be a change in circumstances. Accordingly, the depository organizations would have 15 months, under NCUA's regulation, to address the prohibited interlock by termination or otherwise. The agency with jurisdiction over the organization may establish a shorter period. Conforming changes relating to termination have been made to NCUA's change of circumstances provisions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

No prior NCUA approval would be required in order to claim the proposed small market share exemption. Management is responsible for compliance with the terms of the exemption and for maintaining sufficient supporting documentation.

The most recently available deposit data will be used to determine whether organizations are entitled to the exemptions. FDIC publishes its deposit total information annually. A credit union seeking the exception is entitled to rely upon the deposit data that has been compiled for the previous year, until more recent data has been distributed.

F. General Comments

One commenter expressed concern that even though a management official interlock between two credit union is exempt under the Interlocks Act, credit unions should be made aware that a conflict may arise when a management official serves two credit unions. NCUA recognizes that dual service to two or more credit unions could pose a conflict and reminds credit unions that they may choose to adopt a policy addressing the issue.

G. Effective Date of the Final Rule

The banking agencies set the effective date of their joint final rule on January 1, 2000, in accordance with 12 U.S.C. 4802(b). Although NCUA is not subject to 12 U.S.C. 4802(b), in order to simplify compliance with the rule, NCUA has adopted the same effective date. Compliance with the final rule is not mandatory until the effective date. Section 4802(b), however, also permits any person subject to the regulation to comply with the regulation voluntarily, prior to the effective date. To the extent that a credit union and bank desire to comply voluntarily with the final rule, they may elect to do so immediately. If a depository institution elects to comply voluntarily with any section of the management interlocks rule, it must comply with the entire part.

Paperwork Reduction Act

NCUA may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number is 3133–0152. NCUA sought comment on the burden estimates for the information collections listed below and received no comments that specifically addressed the burden stemming from these information collections. The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget under control number 3604–0118 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (3604–0118), Washington, D.C. 20503, with copies of such comments to be sent to NCUA, 1775 Duke Street, Alexandria, VA 22314, Attention: James L. Baylen, Paperwork Reduction Act Coordinator, Telephone No. (703) 518–6410; Fax No. (703) 518–6433; E–Mail address: OAMAIL@NCUA.GOV.

The collection of information requirements in this proposed rule are found in 12 CFR 711.4(h)(1)(i), 711.5(a)(1), 711.5(a)(2), 711.5(b), 711.6(a), and 711.6(c). This information is required to evidence compliance with the requirements of the Interlocks Act by federal credit unions and federally insured, state-chartered credit unions. The likely respondents are federal credit unions and federally insured, state-chartered credit unions. In the past several years, NCUA has received approximately one management interlock application each year. The following estimates are provided:

Estimated average annual burden hours per respondent: 3 hours.

Estimated number of respondents: 1.

Start-up costs to respondents: None.

No issues of confidentiality under the provisions of the Freedom of Information Act normally arise for the applications.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), NCUA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this rule will not: (1) have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the regulations relax the criteria for obtaining an exemption from the interlocks prohibitions, and specifically address the needs of small entities by creating the small market share exemption. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The NCUA Board has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule, just as the current rule, applies to all federally insured credit unions, including federally insured state-chartered credit unions. However, since the rule reduces regulatory burdens, NCUA has determined that it does not constitute a ''significant regulatory action'' for purposes of the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget is reviewing this rule to determine that it is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 711

Antitrust, Credit unions, Holding companies, Management official interlocks.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA amends 12 CFR part 711 as follows:

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

1. The authority citation for Part 711 continues to read as follows:

Authority: 12 U.S.C. 3201–3208.

§ 711.2 [Amended]

1. Section 711.2 is amended by removing paragraphs (b) and (f) and redesignating paragraphs (c) through (s) as paragraphs (b) through (q), respectively.

2. Section 711.3 is amended by revising paragraph (c) to read as follows:

§ 711.3 Prohibitions.

* * * * *

(c) *Major Assets.* A management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate thereof) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate thereof), regardless of the location of the two depository organizations. The NCUA will adjust these thresholds, as necessary, based on year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The NCUA will announce the revised thresholds by publishing a notice in the **Federal Register**.

3. Section 711.5 is revised to read as follows:

§ 711.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 711.3(a) or § 711.3(b) is permissible, provided:

(1) The interlock is not prohibited by § 711.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20% of the deposits, in each RMSA or community in which the depository organizations (or their depository institution affiliates) are located. The amount of deposits will be determined by reference to the most recent annual Summary of Deposits published by the FDIC. This information is available on the Internet at http://www.fdic.gov.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

4. Section 711.6 is revised to read as follows:

§ 711.6 General exemption.

(a) *Exemption.* NCUA may, by agency order issued following receipt of an application, exempt an interlock from the prohibitions in § 711.3, if NCUA finds that the interlock would not result in a monopoly or substantial lessening of competition, and would not present other safety and soundness concerns.

(b) *Presumptions.* In reviewing applications for an exemption under this section, NCUA will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves, low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in ''troubled condition'' as defined in § 701.14(b)(3) of this chapter.

(c) *Duration.* Unless a shorter expiration period is provided in the NCUA approval, an exemption permitted by paragraph (a) of this section may continue so long as it would not result in a monopoly or substantial lessening of competition, or be unsafe or unsound. If the NCUA grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided in the approval.

5. Section 711.7 is amended by revising paragraph (a) to read as follows:

§ 711.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service if a change in circumstances causes the service to become prohibited. A change in circumstances may include, but is not limited to, an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

* * * * *

[FR Doc. 99–30692 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 712

Credit Union Service Organizations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule reinstates real estate brokerage services as a permissible credit union service organization (CUSO) service. Because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as permissible CUSO service.

DATES: This rule is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

In March 1998, the NCUA Board removed real estate brokerage services from the list of permissible CUSO services. 12 CFR 712.6(b). On November 19, 1998, the NCUA Board requested

comment on proposed changes to part 712 of its regulations. 63 FR 65714 (November 30, 1998). Although the Board did not request comment on the issue of real estate brokerage services, eight commenters objected to its removal. Based on the comments, the NCUA Board issued an interim final rule that provided a grandfather exemption for real estate brokerage services if a CUSO was providing that service prior to April 1, 1998. 64 FR 33187 (June 22, 1999). The interim final rule also requested comment on that exemption and whether real estate brokerage services should be reinstated as a permissible activity.

Summary of Comments

The NCUA Board received sixteen comments on the interim final rule: ten from credit unions; two from credit union trade associations; two from state leagues; one from a CUSO trade; and one from a bank trade association. Fifteen of the sixteen commenters were in favor of reinstating real estate brokerage service as a permissible service.

The only negative commenter was a bank trade group. That commenter stated that allowing a CUSO into the ''real estate service arena'' results in unfair competition because of credit unions' tax advantages.

Some of the reasons stated throughout the comment letters in support of reinstating the service were: there is no evidence that the service presents a safety and soundness risk; if a safety and soundness concern arises with respect to a particular CUSO, NCUA has within its supervisory power the authority to require a credit union to divest itself of the investment; the real estate brokerage services of a CUSO are monitored by state licensing authorities; the CUSO must comply with the code of ethics and standards of practice imposed by the National Association of Realtors; and the service is an important member service because it provides a convenience and possible savings to the member.

Twelve of the fourteen commenters that commented on the grandfather provision were in favor of it. The two negative commenters were the bank trade group discussed above and a credit union trade group. The credit union trade group wants the grandfather exemption eliminated because ''real estate brokerage should be reinstated as a permissible activity for all CUSOs.''

Final Rule

The Board continues to have concerns with conflicts and the appearance of conflicts between real estate brokerage CUSOs and the credit unions such CUSOs serve. However, because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as a permissible CUSO service. This final rule eliminates the grandfather exemption and amends § 712.5 so that CUSOs may again engage in real estate brokerage services.

Section 712.5 allows the Board to limit or discontinue a CUSO service if it has supervisory, legal, or safety and soundness concerns. The Board cautions that, if a conflict between the real estate brokerage CUSO and the FCU's loan program arises, the Board may order the FCU to divest its investment in the real estate brokerage CUSO.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under 1 million in assets). The NCUA Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendment to the rule reduces regulatory burden. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule has no effect on reporting requirements in part 712.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The CUSO regulation applies only to FCUs. Thus, the NCUA Board has determined that this interim rule does not constitute a ''significant regulatory action'' for purposes of the Executive Order. NCUA will continue to work with the state credit union supervisors to achieve shared goals concerning CUSOs with both FCU and state-chartered credit union participation.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and determined that, for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, this is not a major rule.

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons stated in the preamble, the NCUA amends part 712 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS

1. The authority citation for part 712 will continue to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

2. In § 712.5, redesignate paragraph (p) as paragraph (q) and add a new paragraph (p) to read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * * *

(p) *Real estate brokerage services.*

* * * * *

§ 712.6 [Amended]

3. In § 712.6, remove the designation from paragraph (a), and remove paragraph (b).

[FR Doc. 99–30693 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–18–AD; Amendment 39–11430; AD 99–24–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes; and Model 727–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 727–100 and –200 series airplanes. This amendment requires a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new or serviceable pump, if necessary. This amendment is prompted by a report that breather plugs were missing from fuel tank boost pumps. The actions specified by this AD are intended to prevent possible ignition of fuel vapor in the fuel tank boost pump, which could result in a fuel tank explosion in the event of a boost pump internal failure.

DATES: Effective January 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the 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: Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2684; fax (425) 227–1181.

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 Boeing Model 737–100, –200, –300, –400, and –500 series airplanes; and all Model 727–100 and –200 series airplanes; was published in the **Federal Register** on May 10, 1999 (64 FR 24964). That action proposed to require a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new pump, if necessary.

Comments

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Clarify Part Numbers of Affected Fuel Pump

Two commenters request that Argo-Tech/TRW fuel tank boost pumps subject to the unsafe condition be identified by part number in the proposed rule. The commenters state that there are Argo-Tech/TRW fuel tank boost pumps with certain part numbers that are not subject to the identified unsafe condition. The FAA concurs and has revised the applicability section and paragraph (b) of the final rule accordingly.

Request To Allow Replacement With Serviceable Pumps

One commenter requests that the proposed rule be revised to allow replacement of any discrepant fuel tank boost pump with a serviceable pump. The proposed rule specifies that discrepant fuel tank boost pumps be replaced with new pumps. The commenter states that boost pumps may be overhauled and re-installed on airplanes. The FAA concurs with the commenter that either overhauled or new pumps are acceptable for compliance with this AD. Therefore, paragraph (a) of the final rule has been revised to allow replacement of any discrepant boost pump with a new or serviceable pump.

Request To Reference Additional Service Information

Three commenters request that the proposed rule be revised to reference Boeing Alert Service Bulletin 737–28A1134, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 737 series airplanes); and Boeing Alert Service Bulletin 727–28A0125, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 727 series airplanes); as additional sources of service information. The commenters state that these alert service bulletins provide instructions equivalent to those contained in Boeing Telex M7200–98–03173, dated October 21, 1998 (which is cited in the proposed rule as the appropriate source of service information for accomplishment of the inspection requirements of the proposed AD).

The FAA partially concurs and has revised paragraph (a) of the final rule to cite Boeing Alert Service Bulletin 737–28A1134, Revision 1, and Boeing Alert Service Bulletin 727–28A0125, Revision 1, as additional sources of service information. However, the original issues of the alert service bulletins incorrectly identify the part numbers of affected fuel tank boost pumps, though the procedures needed to accomplish the required actions of this AD are correctly described. Therefore, a note has been added to the final rule stating that, for the applicable boost pumps, accomplishment of the actions in accordance with the original issues of the alert service bulletins, prior to the effective date of this AD, is acceptable.

Request for Change in Applicability

One commenter requests that the Model 737–500 series airplane be excluded from the applicability of the proposed rule. The commenter states that, to its knowledge, Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition are not approved for installation on the Model 737–500 series airplane. The commenter also requests that boost pumps installed in the main or center fuel tanks of the Model 737–400 series airplane be excluded from the applicability of the proposed rule because, to its knowledge, Argo-Tech/TRW boost pumps subject to the identified unsafe condition are not approved for installation in those fuel tanks on the Model 737–400 series airplane.

The FAA does not concur. The FAA recognizes that Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition were not installed during production in any fuel tank on Model 737–500 series airplanes or in the main or center fuel tanks of Model 737–400 series airplanes. However, the FAA cannot confirm that these boost pumps were not installed as part of a post-production modification to an airplane. Therefore, the FAA continues to require that each operator confirm whether Argo-Tech/TRW boost pumps subject to the identified unsafe condition are installed on its airplanes. No change to the final rule is necessary in this regard.

Request To Extend Compliance Time

One commenter requests that the proposal rule be revised to extend the compliance time from the proposed 6 months to 12 months for the inspection of the fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes. The commenter requests this extension so that affected operators will be able to perform the inspection during a regularly scheduled maintenance interval. The commenter states that the

adoption of the proposed compliance time of 6 months would require operators to schedule special times for the accomplishment of the inspection, at additional expense and downtime.

The FAA does not concur. The operator provided no technical justification for revising this interval as requested. The FAA specifically selected a shorter compliance time for fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes because these fuel tanks have a higher flammability exposure than the other fuel tanks. This is due to the fact that these fuel tanks are warmer than the main fuel tanks and because they are routinely operated until they are dry, exposing the pump return lines directly to flammable fuel vapors. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, the availability of any necessary replacement parts, and the practical aspect of accomplishing the required inspection within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In light of these factors, the FAA has determined that the 6-month compliance time for inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes, as proposed, is appropriate. No change to the final rule is necessary in this regard.

Request To Reduce Compliance Time

One commenter requests that the proposed 6-month compliance time for the inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes be shortened to 3 months, and that the proposed 12-month compliance time for the inspection of boost pumps in the main fuel tanks on Model 737 series airplanes and in center and main fuel tanks on Model 727 series airplanes be shortened to 6 months. This commenter suggests that the proposed compliance time may be too long to allow an airplane to fly with a potential failure that could result in a fuel tank explosion. The commenter notes that the time required to carry out the inspections will have minimal impact on airplane operations.

The FAA does not concur with the request for a shorter compliance time. In developing the proposed compliance time, the FAA considered the probability of a fuel tank explosion occurring on any of these airplanes due to a missing breather plug. The FAA determined that the occurrence of a fuel tank ignition event is improbable; therefore, more urgent action is not necessary. In making this determination, the FAA has taken into account the conditions that are required for a missing breather plug to cause a fuel tank explosion. Specifically, the FAA considered the probability of an in-service fuel tank boost pump missing a breather plug (based on inspections that had been conducted on over 1,050 fuel pumps), the probability of a boost pump failure that would cause an internal ignition inside the pump, and the probability of fuel vapors in the fuel tank being flammable. The proposed compliance times were determined to be appropriate in consideration of the safety implications, the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of required replacement parts. No change to the final rule is necessary in this regard.

Request To Revise Compliance Time

One commenter requests that the proposed rule be revised to provide an extension of the compliance time for any airplane that is out of service for heavy maintenance for a long period of time. The commenter suggests the compliance time should be within 6 months (or 12 months) after the effective date of this AD, or prior to further flight, whichever occurs later.

The FAA does not concur with the commenter's request; however, the FAA agrees with the commenter's intent. Part 39 of the Federal Aviation Regulations (14 CFR part 39) states that, ''No person may operate a product to which an airworthiness directive applies except in accordance with the requirements of that airworthiness directive.'' This regulation provides compliance relief for airplanes that are not being operated, because affected airplanes need only be in compliance prior to return to operation. No change to the final rule is necessary in this regard.

Request for Credit for Previously Accomplished Actions

Two commenters request that a statement be added to the proposed rule to clarify that no further action is required for airplanes that have already accomplished the actions specified in the proposed rule. The FAA agrees that no further action is required for these airplanes. Operators are always given credit for previously accomplished actions by means of the phrase in the compliance section of the AD that states, ''Required . . . unless accomplished previously.'' Therefore, no change to the final rule is necessary in this regard.

Explanation of Change Made to Proposal

The airplane manufacturer has revised the instructions in the airplane maintenance manual (AMM) sections specified in paragraph (a) of the proposed rule to include, prior to installation of a new fuel tank boost pump, a check of the vent port to ensure that a breather plug is installed. The FAA finds that this check is appropriate. Therefore, the FAA has revised paragraph (a) of the final rule to specify that, after the effective date of the final rule, only Section 28–22–41 of the Boeing 737 AMM, dated May 1, 1999, or Section 28–22–21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used.

The FAA also has added a note to the final rule to clarify the definition of a detailed visual inspection.

Conclusion

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

Cost Impact

There are approximately 2,477 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,345 airplanes of U.S. registry will be affected by this AD. It will take approximately 2 work hours per fuel tank boost pump to accomplish the required actions at an average labor rate of $60 per work hour. (There are 6 boost pumps in the center and main fuel tanks on Model 737 series airplanes, 8 boost pumps in the center and main fuel tanks on Model 727 series airplanes, and 2 boost pumps in each auxiliary fuel tank, which may be installed on some affected airplanes of both models.) Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $120 per boost pump.

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:

99–24–06 Boeing: Amendment 39–11430. Docket 99–NM–18–AD.

Applicability: Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 727–100 and –200 series airplanes; certificated in any category; equipped with Argo-Tech/TRW fuel tank boost pumps having part numbers 258000–2, –3, and –5, or 382300–1, –2, and –3.

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 possible ignition of fuel vapor in the fuel boost pump, which could result in a fuel tank explosion, accomplish the following:

Inspection and Corrective Actions

(a) Perform a one-time detailed visual inspection to detect discrepant breather plugs (including loose, damaged, and missing plugs) in the fuel tank boost pumps, at the time specified in paragraph (a)(1) or (a)(2), as applicable, of this AD; in accordance with Boeing Telex M–7200–98–03173, dated October 21, 1998; or Boeing Alert Service Bulletin 737–28A1134, Revision 1, dated June 10, 1999 (for Model 737 series airplanes); or Boeing Alert Service Bulletin 727–28A0125, Revision 1, dated June 10, 1999 (for Model 727 series airplanes). If any discrepancy is detected, prior to further flight, either install a new breather plug in accordance with Temporary Revision (TR) No. 28–1 of the Argo-Tech Overhaul Manual, dated November 13, 1998, or the alert service bulletins; or replace the boost pump with a new or serviceable pump, in accordance with procedures specified in Section 28–22–41 of the Boeing 737 Airplane Maintenance Manual (AMM), or Section 28–22–21 of the Boeing 727 AMM, as applicable. After the effective date of this AD, only Section 28–22–41 of the Boeing 737 Airplane Maintenance Manual (AMM), dated May 1, 1999, or Section 28–22–21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used for replacement of the boost pump.

(1) For center fuel tanks installed on Model 737 series airplanes, and for auxiliary fuel tanks installed on Model 727 and 737 series airplanes: Inspect within 6 months after the effective date of this AD.

(2) For main fuel tanks installed on Model 737 series airplanes, and for center and main fuel tanks installed on Model 727 series airplanes: Inspect within 12 months after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: For Argo-Tech/TRW fuel tank boost pumps, part numbers 258000–2, –3, and –5, and 382300–1, –2, and –3: Accomplishment of the actions specified in paragraph (a) of this AD, prior to the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1134, dated February 23, 1999 (for Model 737 series airplanes), or Boeing Alert Service Bulletin 727–28A0125, dated February 23, 1999 (for Model 727 series airplanes), is acceptable for compliance with this AD.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane an Argo-Tech/TRW fuel tank boost pump having the part number 258000–2, –3, or –5; or 382300–1, –2, or –3; unless that pump has been inspected and applicable corrective actions have been performed in accordance with the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(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.

Incorporation by Reference

(e) The inspection and installation shall be done in accordance with Boeing Telex M–7200–98–03173, dated October 21, 1998; Boeing Alert Service Bulletin 737–28A1134, Revision 1, dated June 10, 1999; Boeing Alert Service Bulletin 727–28A0125, Revision 1, dated June 10, 1999; or Temporary Revision No. 28–1 of the Argo-Tech Overhaul Manual, dated November 13, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 3, 2000.

Issued in Renton, Washington, on November 17, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30517 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–54–AD; Amendment 39–11433; AD 99–24–09]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires modifying the flap inboard attachment fittings through the installation of a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the potential of the inboard flap attachment fittings buckling while operating at full flaps with full power into a head-on wind gust, which could result in loss of control of the airplane.

DATES: Effective January 14, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2000.

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–54–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Models PC–12 and PC–12/45 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 13, 1999 (64 FR 44137). The NPRM proposed to require modifying the flap inboard attachment fittings through the installation of a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with Pilatus Service Bulletin No. 57–004, dated June 11, 1999.

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

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

The FAA's Determination

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

Cost Impact

The FAA estimates that 77 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $23,100, or $300 per airplane.

Regulatory Impact

This rule does not have Federalism implications as defined in Executive Order No. 13132. This means it does 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. The FAA has not consulted with state authorities prior to publication of this rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–24–09 Pilatus Aircraft Ltd.: Amendment 39–11433; Docket No. 99–CE–54–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial number (MSN) 101 through MSN 300, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the potential for the inboard flap attachment fittings buckling while operating at full flaps with full power into a head-on wind gust, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, modify the flap inboard attachment fittings by installing a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings (Modification Kit Number 500.50.12.199). Accomplish this modification in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 57–004, dated June 11, 1999.

(b) As of the effective date of this AD, no person may install on any of the affected airplanes, flap inboard attachment fittings that do not have Modification Kit Number 500.50.12.199 incorporated.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) The modification required by this AD shall be done in accordance with Pilatus Service Bulletin No. 57–004, dated June 11, 1999. 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 Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on January 14, 2000.

Issued in Kansas City, Missouri, on November 15, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30520 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–52–AD; Amendment 39–11438; AD 99–24–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1A2 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80E1A2 series turbofan engines. This action requires removing from service stage 2 high pressure turbine (HPT) disks and impeller spacers prior to exceeding new, lower cyclic life limits and imposes a drawdown program for those parts that currently exceed, or will exceed, the new lower limits. This amendment is prompted by the results of a refined low cycle fatigue (LCF) analysis. The actions specified in this AD are intended to prevent LCF cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective December 13, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 25, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–52–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, OH 45215; telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: John E. Golinski, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7135, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received results of a refined low cycle fatigue (LCF) analysis for stage 2 high pressure turbine (HPT) disks and impeller spacers installed on General Electric Company (GE) CF6–80E1A2 series turbofan engines. GE has advised the FAA that the retirement lives of the CF6–80E1A2 HPT stage 2 disk and impeller spacer identified in Chapter 5 of the Engine Manual need to be reduced. Updated stress analysis showed the operating stresses to be higher than originally predicted, resulting in lower calculated cyclic retirement lives for these components. The lower calculated cyclic lives are below the current retirement lives found in Chapter 5 of the Engine Manual. There have been no reports to date of LCF cracking or distress on these components attributed to parts exceeding the new reduced Chapter 5 retirement lives. The LCF analysis completed as part of a CF6–80E1 derivative model certification program showed significantly different retirement lives for the two engine models with similar components. GE initiated an investigation and assessment of the LCF analysis to understand the disparity and determined the updated and refined analysis resulted in a more complete understanding of the operating stresses for certain critical features for these components. This condition, if not corrected, could result in LCF cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft.

Service Information

GE CF6–80E1A2 SB 72–0169, dated July 22, 1999, that describes the new, lower life cyclic life limits and a drawdown plan for both the stage 2 HPT disks and impeller spacers.

Difference Between AD and SB

The SB, unlike this AD, includes a drawdown plan for impeller spacers.

A recent reassessment of the need for a drawdown program for the impeller spacer occurred when a high cycle engine with the affected stage 2 HPT disk and impeller spacer had recently been removed from service due to high vibration. The assessment shows a drawdown program was not required for the impeller spacer.

In addition, the SB includes a drawdown program for the diffuser vane ring which is not included in the AD.

Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent an uncontained engine failure. This AD requires removing from service stage 2 HPT disks, part number (P/N) 1639M50P03, prior to exceeding new, lower cyclic life limits, and replacing with serviceable parts. The AD also imposes a drawdown program for those parts that currently exceed, or will exceed, the new lower limits. The HPT impeller spacers, P/N 1473M85P02, need only to be removed and replaced prior to exceeding the new, lower cyclic life limit. The FAA has determined, based on a current fleet histogram, that a separate drawdown program for the HPT impeller spacer is not needed since there are no impeller spacers in service which exceed the new reduced cyclic life limit. The new life limits are based on an updated stress and life analysis.

Immediate Adoption

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 9X–NE–XX–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

99–24–14 General Electric Company: Amendment 39–11438. Docket 99–NE–52–AD.

Applicability: General Electric Company (GE) CF6–80E1A2 series turbofan engines, with stage 2 high pressure turbine (HPT) disks, part number (P/N) 1639M50P03, and HPT impeller spacers, P/N 1473M85P02, installed. These engines are installed on but not limited to Airbus Industrie A330 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent low cycle fatigue (LCF) cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Stage 2 HPT Disks Drawdown Plan

(a) Remove from service stage 2 HPT disks, P/N 1639M50P03, and replace with serviceable parts, as follows:

Note 2: GE CF6–80E1A2 Service Bulletin (SB) 72–0169, dated July 22, 1999, describes the stage 2 HPT disk drawdown plan.

(1) For disks that have accumulated greater than or equal to 3,800 cycles-since-new (CSN) on the effective date of this AD, remove within 200 cycles-in-service (CIS) after the effective date of this AD, but not to exceed 6,400 CSN.

(2) For disks that have accumulated greater than or equal to 2,500 CSN on the effective date of this AD and less than 3,800 CSN on the effective date of this AD, remove from service prior to accumulating 4,000 CSN.

(3) For disks that have accumulated greater than or equal to 1,900 CSN on the effective date of this AD and less than 2,500 CSN on the effective date of this AD, remove from service within 1,500 CIS after the effective date of the AD.

(4) For disks that have accumulated less than 1,900 CSN on the effective date of this AD, remove prior to accumulating 3,400 CSN.

New, Stage 2 HPT Disk Lower Life Limit

(b) Except for the provisions of paragraph (d) of this AD, no stage 2 HPT disk, P/N 1639M50P03, may be installed with 3,400 or greater CSN.

New, Lower HPT Impeller Spacer Life Limit

(c) Remove from service HPT impeller spacers, P/N 1473M85P02, prior to accumulating 5,100 CSN. Except for the provisions of paragraph (d) of this AD, no HPT impeller spacer, P/N 1473M85P02, may be installed with 5,100 or greater CSN.

Note 3: GE CF6–80E1A2 SB 72–0169, dated July 22, 1999, describes an HPT impeller spacer drawdown plan that is not utilized in this AD.

Alternative Method of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Ferry Flights

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

(f) This amendment becomes effective on December 13, 1999.

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30624 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–260–AD; Amendment 39–11432; AD 99–24–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that currently requires, for certain airplanes, repetitive replacements of the airplane battery with a new or reconditioned battery and replacement of the battery charger with a new or serviceable battery charger; performing repetitive tests to determine the condition of a certain diode of the Generator Control Units (GCU); and corrective actions, if necessary. This amendment adds, for certain other airplanes, a requirement for repetitive replacements of the airplane battery with a new or reconditioned battery, and clarifies a diode test requirement. This amendment is prompted by an incident during which all electrical power was lost due to a combination of a weak or depleted battery and the failure of a certain diode of the GCU. The actions specified in this AD are intended to prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing.

DATES: Effective December 13, 1999.

The incorporation by reference of Boeing Telex Message M–7200–99–01528, dated March 5, 1999, as listed in the regulations, was approved previously by the Director of the **Federal Register** as of September 16, 1999 (64 FR 47656, September 1, 1999).

Comments for inclusion in the Rules Docket must be received on or before January 25, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On August 24, 1999, the FAA issued AD 99–18–17, amendment 39–11283 (64 FR 47656, September 1, 1999), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, to require repetitive replacements of the airplane battery with a new or reconditioned battery and, for certain airplanes, replacement of the battery charger with a new or serviceable battery charger. That action also requires performing repetitive tests to determine the condition of a certain diode of the Generator Control Units (GCU); and corrective actions, if necessary. That action was prompted by an incident during which all electrical power was lost due to a combination of a weak or depleted battery and the failure of a certain diode of the GCU. The actions required by that AD are intended to prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing.

Actions Since Issuance of Previous Rule

Following the incident described previously in which all electrical power was lost due to a weak or depleted battery and the failure of certain GCU diodes, an assessment of airplane battery maintenance was conducted. As a result, it was determined that some operators have extended maintenance intervals beyond those recommended by the airplane manufacturer, which increases the likelihood of allowing an airplane to operate with a weak or depleted airplane battery. In addition, the risk associated with the use of such a battery is greater on Model 737–100 and –200 series airplanes because some of these airplanes use an older version of battery charger. The older version has charging characteristics that are not compatible with the extended airplane battery maintenance intervals.

Since the issuance of AD 99–18–17, the FAA has determined that it is necessary to revise certain requirements of that AD. The FAA points out that its intent in that AD was to require operators of Model 737–100 and –200 series airplanes equipped with battery chargers having Boeing part number (P/N) 10–60701–3, as well as P/N 10–60701–1, to replace the airplane battery with a new or reconditioned airplane battery. However, the replacement requirement for airplanes equipped with a battery charger having Boeing P/N 10–60701–3 was inadvertently omitted from paragraph (a) of the AD. That requirement is included in paragraph (f) of this AD.

The FAA also has determined that it is necessary to clarify its intent in AD 99–18–17 regarding the test required to determine the condition of diode CR910 of the GCU. Although that AD only specifies that ''a test'' is required, this AD clarifies that the required test is the ''Alternative Test of Diode CR910,'' which is specified along with various other tests included in Boeing Telex Message M–7200–99–01528, dated March 5, 1999. This change is necessary because the test requirement specified

in AD 99–18–17 unintentionally allows operators the discretion to select from any of the various tests specified in the Boeing telex message. The FAA has determined that all other test methods referenced in that Boeing telex message are unacceptable as methods of complying with the requirements of this amendment.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 99–18–17 to continue to require, for certain airplanes, repetitive replacements of the airplane battery with a new or reconditioned battery, and replacement of the battery charger with a new or serviceable battery charger; performing repetitive tests to determine the condition of a certain diode of the GCU; and corrective actions, if necessary. This amendment adds, for certain airplanes, a requirement for repetitive replacement of the airplane battery for Models 737–100 and –200 series airplanes equipped with battery charger Boeing P/N 10–60701–3 with a new or reconditioned battery, and clarifies a diode test requirement. The battery replacement is required to be accomplished in accordance with Chapter 20–20–111 of the Boeing 737 Airplane Maintenance Manual; and the diode test is required to be accomplished in accordance with the ''Alternative Test of Diode CR910,'' as specified in Boeing Telex Message M–7200–99–01528, dated March 5, 1999.

Interim Action

Since the cause of the failures of the GCU's is under investigation, this is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–260–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11283 (64 FR 47656, September 1, 1999), and by adding a new airworthiness directive (AD), amendment 39–11432, to read as follows:

99–24–08 Boeing: Amendment 39–11432. Docket 99–NM–260–AD. Supersedes AD 99–18–17, Amendment 39–11283.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing, accomplish the following:

Restatement of the Requirements of AD 99–18–17

(a) For Model 737–100 and –200 series airplanes equipped with battery charger Boeing part number (P/N) 10–60701–1: Within 90 days after September 16, 1999 (the effective date of AD 99–18–17, amendment 39–11283), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Replace the airplane battery charger with a new or serviceable airplane battery charger, Boeing P/N 10–60701–3, in accordance with Chapter 20–10–111 of the

Boeing 737 Airplane Maintenance Manual (AMM); and

(2) Replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours, until the accomplishment of paragraph (f) of this AD.

(b) For Model 737–300, –400, and –500 series airplanes: Within 90 days after September 16, 1999, replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours.

(c) For all airplanes: Within 90 days after September 16, 1999, perform a test to determine the condition of diode CR910 of the Generator Control Units (GCU), in accordance with Boeing Telex Message M–7200–99–01528, dated March 5, 1999.

(1) If all diodes pass the test, repeat the diode test thereafter at intervals not to exceed 600 flight hours, until the accomplishment of paragraph (g) of this AD.

(2) If any diode fails the test: Prior to further flight, replace the GCU with a new or serviceable GCU, and the airplane battery with a new or reconditioned airplane battery, and repeat the diode test for the replaced GCU in accordance with the telex message until successful completion of the test is achieved. Repeat the diode test thereafter, at intervals not to exceed 600 flight hours, until the accomplishment of paragraph (g) of this AD.

(d) As of September 16, 1999, no person shall install a battery charger having Boeing P/N 10–60701–1 on any Model 737 series airplane.

(e) Within 10 days after accomplishing the initial diode test required by paragraph (c) of this AD, submit a report of the test results (negative findings, i.e., test failures) to the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

New Requirements of this AD

(f) For Model 737–100 and –200 series airplanes equipped with battery charger Boeing P/N 10–60701–3: Within 90 days after the effective date of this AD, or within 750 flight hours after the last battery replacement accomplished in accordance with paragraph (a)(2) of this AD, whichever occurs later, replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours. Accomplishment of this replacement constitutes terminating action for the requirements of paragraph (a)(2) of this AD.

(g) For all airplanes: Within 90 days after the effective date of this AD, or within 90 days after accomplishment of the test required by paragraph (c) of this AD, whichever occurs later, determine the condition of diode CR910 of the GCU, in accordance with the ''Alternative Test of Diode CR910,'' as specified in Boeing Telex Message M–7200–99–01528, dated March 5, 1999. Accomplishment of this action constitutes terminating action for the requirements of paragraph (c) of this AD.

Note 2: Any tests performed prior to September 16, 1999, in accordance with Boeing Telex Message M–7200–99–01528, dated February 19, 1999, or dated March 4, 1999, are not considered acceptable for compliance with the applicable action specified by this AD.

(1) If all diodes pass the test, repeat the diode test thereafter at intervals not to exceed 600 flight hours.

(2) If any diode fails the test: Prior to further flight, replace the GCU with a new or serviceable GCU, and the airplane battery with a new or reconditioned airplane battery, and repeat the ''Alternative Test of Diode CR910'' for the replaced GCU in accordance with the telex message until successful completion of the test is achieved. Repeat the diode test thereafter, at intervals not to exceed 600 flight hours.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance with paragraphs (a)(1), (a)(2), or (b) of this AD, approved previously in accordance with AD 99–18–17, amendment 39–11283, are approved as alternative methods of compliance with paragraphs (a)(1), (a)(2), or (b) of this AD.

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

Special Flight Permits

(i) 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.

Incorporation by Reference

(j) Except as provided by paragraphs (a)(1), (a)(2), (b), and (f) of this AD, the actions shall be done in accordance with Boeing Telex Message M–7200–99–01528, dated March 5, 1999. This incorporation by reference was approved previously by the Director of the Federal Register as of September 16, 1999 (64 FR 47656, September 1, 1999). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington. 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.

(k) This amendment becomes effective on December 13, 1999.

Issued in Renton, Washington, on November 17, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30516 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–125–AD; Amendment 39–11431; AD 99–24–07]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, that requires modification of the nacelle strut and wing structure. This amendment is prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut structure prior to an airplane's reaching its design service objective. The actions specified by this AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: Effective January 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the 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: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

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 Boeing 757 series airplanes was published in the **Federal Register** on August 20, 1999 (64 FR 45483). That action proposed to require modification of the nacelle strut and wing structure of certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines.

Comments

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

One commenter indicates that it is not affected by the proposed rule.

One commenter states that it plans to accomplish the requirements of 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 394 airplanes of the affected design in the worldwide fleet. The FAA estimates that 176 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1,049 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. This work hour figure includes the time it will take to remove and reinstall the struts from the airplane as well as the time to gain and close access to the adjacent wing structure. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $11,077,440, or $62,940 per airplane.

This cost impact figure does not reflect the cost of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, that are required to be accomplished prior to, or concurrently with, the modification of the nacelle strut and wing structure. Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in Table I of the service bulletin.

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. However, the FAA has been advised that manufacturer warranty remedies are available for part costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

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:

99–24–07 Boeing: Amendment 39–11431. Docket 99–NM–125–AD.

Applicability: Model 757 series airplanes equipped with Rolls Royce engines, line numbers 1 through 735 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

(a) Modify the nacelle strut and wing structure in accordance with Boeing Service Bulletin 757–54–0035, dated July 17, 1997, at the later of the times specified in paragraph (a)(1) or (a)(2). All of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, ''Strut Improvement Bulletins,'' on page 6 of Boeing Service Bulletin 757–54–0035, must be accomplished in accordance with those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph.

(1) Prior to the accumulation of 37,500 total flight cycles, or prior to 20 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 3,000 flight cycles after the effective date of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) The modification shall be done in accordance with Boeing Service Bulletin 757–54–0035, dated July 17, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 3, 2000.

Issued in Renton, Washington, on November 17, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30518 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 990701179–9301–02]

RIN 0694–AB90

Expansion of License Exception CIV Eligibility for ''Microprocessors'' Controlled by ECCN 3A001 and Graphics Accelerators Controlled by ECCN 4A003

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export licensing requirements. Consistent with technological changes, this interim rule adjusts the License Exception CIV eligibility level for microprocessors controlled by Export Control Classification Number (ECCN) 3A001 from a composite theoretical performance (CTP) of equal to or less than 1900 million theoretical operations per second (MTOPS) to a CTP of equal to or less than 3500 MTOPS. This rule also adjusts the License Exception CIV eligibility level for graphics accelerators controlled by Export Control Classification Number (ECCN) 4A003 from 10 million vectors per second to 75 million vectors per second. License Exception CIV is available for exports and reexports to civil end-users for civil end-uses in Country Group D:1.

In light of rapid technological advancement in microprocessors, the United States will review the eligibility level for microprocessors in January 2000 to determine if further adjustments are warranted. If further adjustments are warranted, BXA anticipates publishing the revision in Spring 2000.

DATES: This rule is effective November 26, 1999. Comments on this rule must be received on or December 27, 1999.

ADDRESSES: Written comments should be sent to Hillary Hess, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION: Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

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

2. Notwithstanding any other provision of 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 OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close on December 27, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the

United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 6883, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Export Administration Freedom of Information Officer at the above address or by calling (202) 482–0500.

List of Subjects in 15 CFR Part 774

Exports, Foreign Trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730 through 799) is amended as follows:

PART 774—(AMENDED)

1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999 (64 FR 44101, August 13, 1999).

PART 774—AMENDED

Supplement No. 1 to Part 774—AMENDED

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A001 is amended by revising the License Exceptions section to read as follows:

3A001 Electronic components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

LVS: N/A for MT
$1500: 3A001.c
$3000: 3A001.b.1, b.2, b.3, .d, .e and .f
$5000: 3A001.a, and .b.4 to b.7
GBS: Yes, except 3A001.a.1.a, b.1, b.3 to b.7, .c to .f
CIV: Yes, except 3A001.a.1, a.2, a.3.a (for processors with a CTP greater than 3500 Mtops), a.5, a.6, a.9, a.10, and a.12, .b, .c, .d, .e, and .f

* * * * *

3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A003 is amended by revising the License Exceptions section to read as follows:

4A003 ''Digital computers'', ''electronic assemblies'', and related equipment therefor, and specially designed components therefor.

* * * * *

License Exceptions

LVS: $5000; N/A for MT and ''digital'' computers controlled by 4A003.b and having a CTP exceeding 10,000 MTOPS; or ''electronic assemblies'' controlled by 4A003.c and capable of enhancing performance by aggregation of ''computing elements'' so that the CTP of the aggregation exceeds 10,000 MTOPS.
GBS: Yes, for 4A003.d, .e, and .g and specially designed components therefor, exported separately or as part of a system.
CTP: Yes, for computers controlled by 4A003.a, .b and .c, to the exclusion of other technical parameters, with the exception of parameters specified as controlled for Missile Technology (MT) concerns and 4A003.e (equipment performing analog-to-digital or digital-to-analog conversions exceeding the limits of 3A001.a.5.a). See § 740.7 of the EAR.
CIV: Yes, for 4A003.d (having a 3–D vector rate less than 75 M vectors/sec), .e, and .g.

* * * * *

Dated: November 18, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–30706 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

RIN 3038–AB42

Revised Procedures for Listing New Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission) is adopting a final rule permitting exchanges to list contracts for trading without Commission approval. In response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness, the Commission proposed a two-year pilot program to permit the listing of contracts for trading prior to Commission approval. 64 FR 40528 (July 27, 1999). Based upon the comments received, the Commission is modifying the proposed rule to permit exchanges to list commodity futures or option contracts for trading without Commission approval of the contract or its terms and conditions, including any subsequent amendments thereto. This new listing procedure is an alternative to regular or fast-track procedures for contract market designation. To meet its statutory mission of ensuring market integrity and customer protection, the Commission will place greater reliance on its existing oversight authorities to disapprove, alter or supplement exchange rules or to take emergency action, as appropriate. The Commission also is making a number of technical changes to the rule, as suggested by the comments.

In a companion release published elsewhere in this edition of the **Federal Register**, the Commission is proposing to permit all exchange rules and rule amendments to be made effective without Commission approval. As part of that proposed rulemaking, the Commission will seek comment on whether the new procedure for listing contracts for trading without approval which the Commission is adopting herein should become the exclusive means of offering new exchange products and amending their terms and conditions. In a second companion notice in this issue of the **Federal Register**, the Commission is also proposing to delete fees for applications for contract market designation in order to remove any economic disincentive for using regular or fast-track review procedures.

EFFECTIVE DATE: January 25, 2000.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. The Proposed Rules

The Commission recently proposed rules to enable boards of trade to list for trading new contracts [1] without any waiting period. 64 FR 40528 (July 27, 1999). This proposal responded to testimony of representatives of U.S. exchanges that the ability to list contracts more quickly than currently possible is necessary for them to meet competitive challenges by foreign exchanges.[2] The proposed rule, pursuant to the Commission's 4(c) exemptive authority, provided that boards of trade already designated as a contract market in one commodity could list new contracts for trading while their application for designation in the contract was pending approval. Thus, the proposed rules responded to the need for immediacy in listing new contracts within the current statutory framework which requires that the Commission designate boards of trade as a contract market in a commodity and that the Commission approve that contract's terms and conditions.[3]

Specifically, the proposed rule would have required boards of trade to file a contract's terms and conditions with the Commission by close of business on the business day prior to, and an application for contract market designation within forty-five days of, initially listing a contract for trading. Boards of trade would have been permitted to list and maintain up to a full year's trading months prior to designation. Finally, they would have been required to identify the contract as listed pending Commission designation, to enforce the contract's terms and conditions, and to fulfill all of a contract market's self-regulatory obligations during the period prior to its designation as a contract market in that commodity. The proposed rule also provided that while a designation application submitted under regular or fast track procedures was pending, a second exchange could not list the same, or a substantially similar, contract to trade under the rule, nor could the listing procedure be used to evade an adverse Commission proceeding involving the same or a substantially similar contract.[4]

II. Comments Received

Seven entities commented on the proposed rule— five futures exchanges, a futures industry association and an association representing commodity merchandisers.[5] The exchanges generally commented that the proposed rule did not provide sufficient relief. They unanimously opposed the Commission designating a contract after it has been listed for trading, advocating instead that the Commission limit its role to disapproving a new contract or requiring its terms to be amended. They also opposed limiting to one year the trading months that initially could be listed and the Commission characterizing the proposed rule's implementation as a ''pilot program.'' One commenter supported the proposal. The comments are discussed in greater detail below.

Based on its administrative experience and in response to the comments received, the Commission is adopting a final rule permitting exchanges to list contracts for trading pursuant to exchange certification, and without prior Commission approval. As one exchange commenter noted, ''contract approval, while arguably useful in an era before exchanges had developed [sophisticated] * * * self-regulatory systems and procedures,'' is no longer necessary. New York Board of Trade (NYBOT) comment letter at 3. The Commission agrees that it can, and should, place greater reliance on the exchanges' role as self-regulatory organizations, particularly in connection with their decisions to list new products for trading.

As the NYBOT points out, commodity futures and option exchanges over the years have developed increasingly sophisticated self-regulatory mechanisms and procedures to keep pace with the changing nature of the products which they offer. During that time, the Commission has kept pace with those changes by periodically updating the requirements for an application for contract market designation and its processing procedures.[6] Based on that experience, the Commission is confident that commodity futures and option exchanges stand ready to assume greater responsibility for ensuring that their new products meet the applicable statutory and regulatory requirements. The Commission is equally assured that the exchanges will return that confidence through their cooperative response to the Commission's efforts to exercise greater oversight authority and to decrease its direct regulation.

III. The Final Rule

A. Legal Certainty

All of the commenters opposing the proposed rule cited the need for increased legal certainty. Several, such as the Chicago Mercantile Exchange (CME) and the New York Mercantile Exchange (NYMEX) opposed implementation of the rule as a two-year pilot program. They reasoned that a pilot program created undue uncertainty because there was no assurance that the rule would be continued or expanded at the end of the initial two-year period. NYMEX additionally observed that ''the Commission has not provided guidance on how it would evaluate the pilot program.'' [7] In order to provide greater legal certainty to the market, the Commission is promulgating the rule for

[1] However, the Commission proposed that contracts subject to the accord provision of section 2(a)(1)(B) of the Commodity Exchange Act (Act) not be eligible for this relief, consistent with the provisions of section 4(c) of the Act.

[2] During hearings before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, representatives of four U.S. futures exchanges testified that the current regulatory structure is overly burdensome and that statutory changes are necessary to achieve ''parity'' with foreign exchanges and to better enable U.S. exchanges to compete in the growing global marketplace. CFTC Reauthorization: Hearings Before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, 106th Cong., 1st Sess. (1999). *See,* statements of the Chicago Board of Trade, the Board of Trade of the City of New York, the Chicago Mercantile Exchange, and the New York Mercantile Exchange (NYMEX).

In particular, the U.S. exchanges urged Congress to eliminate the requirement that the Commission review and approve new contracts before they begin trading and amendments to exchange rules before they can be implemented. For example, Daniel Rappaport, Chairman of the Board of Directors of NYMEX testified that, ''detailed CFTC review and approval of the specific terms and conditions of the contract has not been necessary, provides marginal, if any value, and adds cost, uncertainty, and delay to the roll-out of new contracts.''

[3] As the Commission noted, although the contracts during that initial listing period would not have been designated, they would have been designated subsequently using the current procedures, including fast-track review. During the initial review period, the contracts would have been valid and enforceable pursuant to the Commission's rule which was proposed under the Commission's exemptive authority. *Id.* at 40531.

[4] Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a ''new'' contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to, the original, designated contract market.

[5] The thirty-day comment period closed on August 26, 1999.

[6] *See*, Guideline No. 1, 17 CFR Part 5, Appendix A, and 17 CFR 5.1 (fast-track designation procedures.)

[7] NYMEX comment letter at p. 3. NYMEX also suggested that the Notice of Proposed Rulemaking's description of certain benefits of Commission review of exchange rules with no ''original assessment'' of the costs of that review called into question the Commission's commitment to its proposed pilot program.'' The Commission disagrees. The proposed rule on its face either reduced or did not increase regulatory costs.

an unlimited duration and not as a pilot program.

All of the exchanges opposed the proposed rule's requirement that boards of trade submit to the Commission an application for contract market designation within forty-five days of listing a contract to trade. The CME reasoned that the possibility that the Commission might ''disapprove the contract or require its terms to be amended * * * is likely to discourage market participants from trading the new contract.'' CME comment letter at 4. The Chicago Board of Trade (CBT) objected that,

> the Commission is expressly retaining the requirement of Commission review of contract terms, along with the concomitant authority to disapprove or require changes to the contract terms, post-listing. The risk that contract terms could change by Commission fiat during a post listing review period will discourage market use of any contract listed under the pilot program.

CBT comment letter at 2. NYMEX concluded that ''uncertainty regarding whether or not a pending application for designation would be approved or denied, or perhaps modified from the original filing under terms dictated to an exchange by the CFTC, could continue for a whole year.'' [8] NYMEX comment letter at 3. The exchanges therefore concluded that the proposed rule would better serve their competitive needs by permitting them to ''list new contracts without Commission approval-not ''pending'' such approval.'' NYBOT comment letter at 2.

The Commission, in response to the comments, is modifying the rule as proposed to replace the requirement that boards of trade submit for Commission review and approval an application for contract market designation within forty-five days of listing a contract. Instead, boards of trade only will be required to certify that the contract listed for trading meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder. This certification must be filed along with the contract's terms and conditions no later than the close of business of the business day preceding the contract's listing. The exchange's certification that the contract meets the statutory and regulatory requirements is in lieu of the otherwise required application for contract market designation and the Commission's review and approval of the application and of the contract's terms. Under the final rule, contracts may be listed for trading indefinitely in reliance on the exchange's certification; [9] and as discussed below the Commission generally will not review and approve the contract's terms under section 5a(a)(12) of the Act and Commission rule 1.41.

The exchange commenters also objected to the proposed requirement that they notify the public on all public references to the contract or its trading months that the contract is trading pending Commission designation. The CBT stated that, according to certain market users, highlighting the revised terms for deferred contract months in its soybean oil contract as ''pending Commission approval'' ''discouraged calendar spread trading'' and that ''even though open interest began to slowly increase while [it] * * * waited for final Commission action, that growth was slower than anticipated.'' [10] CBT comment letter at 2. The NYMEX concurred, stating that ''uncertainty regarding whether or not a pending application for designation would be approved or denied * * * could continue for a whole year,'' and ''during that period * * * a board of trade would have a continuing duty to notify the public * * * that the contract was trading pending Commission designation.'' NYMEX comment at 3.

However, as long as boards of trade have available two means of listing contracts, either by self-certification or Commission approval, the public has a right to know the legal status of a contract. The final rule clarifies that this public notice obligation is satisfied through an appropriate reference in the board of trade's rule book and includes other conforming changes. Accordingly, the Commission is adopting as final a requirement that the board of trade identify the contract in its rules as ''listed for trading pursuant to exchange certification.''

Two commenters suggested that trading in contracts listed pursuant to the rule would be discouraged without greater legal certainty that a subsequent Commission finding disapproving or altering a contract term would not also invalidate open contracts. As the Futures Industry Association (FIA) noted:

> although the Commission states in the **Federal Register** release accompanying the proposed rule that any contract listed under the revised procedures would be valid and enforceable pending approval, the proposed rule itself is silent on this issue. Without such certainty, the enforceability of any contract subsequently determined to be in violation of the Act would also be open to question.

FIA comment letter at 2. The NYBOT concurred in this view. NYBOT comment letter at 3. Others informally have expressed the view that the applicability of the Act would be uncertain legally unless contracts which are ''listed pursuant to exchange certification'' were also deemed to be ''designated contract markets'' under the Act. The final rule addresses both of these concerns.

The final rule, in response to these comments, explicitly preserves the validity and enforceability of contracts listed pursuant to exchange certification despite a possible violation of the rule by the listing board of trade. For example, if a board of trade incorrectly certifies that the terms of a contract that it is listing for trading do not violate the Act, it will be subject to Commission remedial action for that violation. However, the individual contracts that have been traded are valid and enforceable nonetheless.[11] The Commission in the final rule also has made explicit that all sections of the Act and Commission rules which refer to ''designated contract markets'' are applicable to contracts listed for trading pursuant to rule 5.3.[12]

Accordingly, in exempting boards of trade from the designation and rule approval requirements of the Act, the Commission is not thereby ceding any of its broad oversight authorities over designated contract markets. These include, among others, its authority to disapprove, alter or supplement contract

[8] NYMEX's conclusion regarding the relative degree and length of any such uncertainty is based upon the assumption that the Commission would take the entire statutorily-provided time for the post-listing review and designation of new contracts. However, nothing in either the fast-track or the proposed rule would have precluded use of the Commission's fast track procedures (17 CFR 5.1), which provide either a ten or forty-five day review period. Moreover, the fast-track rule empowers exchanges to request that, if the Commission terminates fast track review, it either approve the contract as submitted or initiate disapproval proceedings.

[9] The exchanges also commented that the proposed limitation of delivery months which could be listed prior to designation to one rolling year would discourage trading in contracts listed under the rule. The final rule includes no limitation on the listing of distant trading months.

[10] The CBT amendments to the soybean contract raised a number of potential issues under U.S. antitrust laws which the Commission, under section 15 of the Act, was obliged to consider in approving the rule. In addition, the Commission found it necessary to amass a sizeable administrative record to determine the relative merit of the claims of non-members of the exchange opposed to the CBT's amendment.

[11] Similarly, although the Commission found that the CBT corn and soybean futures contract markets violated the provisions of section 5a(a)(10) of the Act, the individual contracts traded were valid, enforceable contracts.

[12] Compare, 17 CFR 33.2.

rules under sections 5a(a)(12) [13] and 8a(7) [14] of the Act and its section 8a(9) authority to direct a contract market to take action in market emergencies.[15] The Commission has used these authorities sparingly in the past.[16] In light of the futures exchanges' steadfast commitment to fulfilling their self-regulatory responsibilities, the Commission anticipates that despite the absence of its affirmative prior review of exchange contracts and rules, such adverse actions will continue to be infrequent.[17]

B. Approval of Contract Terms and Conditions

Currently, the Commission approves a contract's initial terms and conditions under section 5a(a)(12) of the Act and Commission rule 1.41 when it issues an Order designating a board of trade as a contract market in that commodity. The Commission also reviews and approves all amendments to the contract's terms and conditions. As proposed, rule 5.3 would have preserved this framework by requiring the exchange to file an application for designation after the contract initially was listed for trading. Filing an application for designation would have triggered the Commission's authority to review and approve the contract's terms and conditions as well as any subsequent amendments. 64 FR at 40532.

As modified, the final rule permits a board of trade indefinitely to list a contract for trading under its provisions. Accordingly, the final rule does not require that an application for contract market designation be submitted to the Commission. Consistent with that provision, a contract listed pursuant to the rule will not have its initial terms and conditions approved by the Commission.[18]

However, as the Commission noted in the Notice of Proposed Rulemaking, contract amendments may raise additional issues for Commission review, such as their potential

> impact on open positions. They may affect the economic utility of contracts. Moreover, exchange rule changes may be the subject of divergent interests or, potentially, conflicts of interest at an exchange or raise broad public policy issues * * *.

64 FR 40528. Nevertheless, the exchange commenters suggested that amendments to contract terms and conditions be accorded the same treatment as newly listed contracts. As the NYBOT stated, ''if a new contract can be listed without prior approval, then rules that relate to contract terms and conditions, amendments thereto, and any other rules should likewise be allowed to become effective immediately upon filing with the Commission. NYBOT Comment letter at 4.

The Commission is modifying the final rule to permit boards of trade to amend the terms of a contract listed for trading by exchange certification on the same conditions that apply to its initial listing. As proposed, all contract terms and conditions would have been subject to Commission review and approval soon after the contract's initial listing. The proposed requirement that the Commission also approve contract amendments was consistent with that framework. However, because under the final rule a contract's initial terms no longer will be approved by the Commission, significant public confusion would ensue were the Commission to retain authority to approve contract amendments. That inconsistency could result in Commission approval of only the amendments to a contract term, but not of the underlying exchange rule itself. Moreover, had the Commission in the final rule retained the proposed requirement that contract amendments be subject to Commission pre-approval while initial contract terms were not, simply listing an amended contract as a

[13] Section 5a(a)(12) of the Act provides in part that: ''the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate.'' The Commission is not waiving in any way its authority under section 5a(a)(12) to disapprove ''at any time'' a rule of a contract which has been listed for trading pursuant to this exemption.

[14] Section 8(a)(7) of the Act provides in part that the Commission is authorized: ''to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as—

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market; (B) the form or manner of execution of purchases and sales for future delivery; (C) other trading requirements, excepting the setting of levels of margin; (D) safeguards with respect to the financial responsibility of members; (E) the manner, method, and place of soliciting business, including the content of such solicitations; and (F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and account; The Commission is not in any way waiving its authority to alter, supplement or amend a rule of a contract that has been listed for trading pursuant to this exemption.

[15] Section 8a(9) of the Act provides in part that the Commission is authorized: ''to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action.'' The Commission is not in any way waiving its authority to declare a market emergency in a contract which has been listed for trading pursuant to this exemption and to order appropriate remedial measures.

[16] The CME maintains that a new standard for rule disapproval is necessary. It suggests that an exchange rule be subject to disapproval only when the rule ''is likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market.'' CME comment at 6. However, under section 5a(a)(12) of the Act, exchange rules are subject to disapproval if they are in ''violation of the provisions of this Act or the regulations of the Commission.'' This standard is far less ambiguous than the one proposed by the CME. Moreover, in light of the limited number of times that the Commission has in fact instituted a proceeding to disapprove or alter a rule, the CME's fear that the Act's current disapproval standard has been, or is, subject to overuse, is misplaced. Moreover, the CME points to the Commission's process for approving an increase to the tick size of the E-Mini S&P 500 contract as an example of Commission micromanagement and why a new standard for disapproval is warranted. Reliance on that example is also misplaced. The Commission's review and request for public comment was triggered by section 15 of the Act and the potential anti-trust implications of increasing the contract's tick size. However, if a contract is not submitted for Commission approval, potential anti-trust issues involving its terms and conditions generally would not be considered by the Commission.

[17] Section 8c(a)(1) of the Act provides the Commission with the authority to discipline directly any exchange member if the exchange, as the self-regulator, fails to act. The Commission is not waiving this oversight authority in any way.

[18] However, the Commission on its own initiative and in its sole discretion may review and approve certain exchange rules, such as exchange speculative position limits, when Commission approval would be in the public interest. The Commission is empowered under section 4a(5) of the Act to enforce exchange speculative position limits which it has ''approved.'' This authority is an important enforcement tool in cases where the violation is by a non-member of an exchange. Accordingly, the Commission may determine to approve some, or all, of the speculative position limits of contracts trading pursuant to this rule. Commission review and approval of such an exchange rule, however, would require no action by, and place no burden on, the board of trade.

new one would provide a ready means to bypass the requirement.[19]

Accordingly, the Commission is modifying the final rule from the rule as proposed to make consistent the regulatory treatment and status of the contract's initial terms and any amendments thereto. Thus, the final rule provides that the text of a contract amendment be submitted to the Commission by close of business of the business day preceding its being implemented. The board of trade must also submit its certification that the rule amendment does not violate and is not inconsistent with any provisions of the Commodity Exchange Act or the rules thereunder.[20]

In addition, the final rule requires that amendments to the terms and conditions of contracts trading pursuant to exchange certification be implemented only for contract months having no open interest. That implementation practice generally has been required by the Commission when reviewing proposed exchange rules for its approval to provide traders with legal certainty regarding the contract's terms and conditions.[21] Even in the absence of rule 5.3 so requiring, boards of trade would adhere to this practice. As the NYBOT observed, ''any changes to terms and conditions * * * should be made effective only with respect to contract months in which there is no open interest. This is consistent with the approach taken by the exchanges today, and endorsed by the Commission, when amendments which affect terms and conditions are introduced to existing contracts.'' NYBOT comment at 3.

This exemption from the requirement of prior Commission approval applies only to the amendment of contracts that are traded pursuant to rule 5.3. In a companion notice being published in this edition of the **Federal Register**, the Commission is proposing a similar exemption for amendments to the rules of a designated contract market. That Notice of Proposed Rulemaking raises two issues that also are applicable to these final rules. First, should the exemption specifically require that contract amendments be implemented only in delivery months with no open interest at the time the rule is made effective? Secondly, to reduce public confusion, should the Commission withdraw the availability of designation of new contracts under regular and fast-track procedures and of Commission approval of exchange rules and rule changes and make the rule 5.3 procedure the sole means of listing new contracts and amending their terms? The Commission is also proposing by separate notice in this edition of the **Federal Register**, to delete application fees for contract market designation. If the Commission determines to retain regular and fast-track designation procedures as alternative methods to rule 5.3 for introducing new products, retaining fees for contract market designation would operate as a disincentive to their use.

C. Conditions

The proposed rule included a number of qualifying conditions for boards of trade and the contracts to be listed thereunder. The Commission proposed that a qualifying board of trade must be designated as a contract market in at least one other non-dormant contract. The CME concurred with the proposed requirement that a board of trade already be a designated contract market in one non-dormant contract, noting that:

> start up exchanges are not appropriate candidates for the proposed pilot program because the initial designation of a board of trade as a contract market entails a more lengthy review and analysis of its trading and clearing systems and its self-regulatory programs. This restriction makes sense, and we support it.

CME comment letter at 3. The Commission is adopting this provision as final without modification.

In addition, the Commission proposed that a contract not be eligible for immediate listing under the rule if it is the same or substantially the same as one for which an application for contract designation is pending before the Commission. As it explained in the Notice of Proposed Rulemaking, the proposed restriction on listing contracts which are the same as contracts pending before the Commission for contract market designation and approval of their terms and conditions is necessary in order to avoid a ''competing exchange [from] * * * short-circuit[ing] the review process and to disadvantage the exchange choosing to subject a proposed contract to prior Commission review.'' 64 FR at 40531. The Commission concluded that such a use of the proposed listing procedure would have been ''an unwarranted competitive use of the proposed rule.'' *Id.* The Minneapolis Grain Exchange (MGE) agreed that the ''proposed rule adequately prevents attempts by exchanges to use the * * * pilot program to jump ahead of an exchange submitting the same or similar contract under regular or fast track procedures.'' MGE comment letter at 2.

The CME opposed the proposal. It reasoned that an exchange which is lagging in developing a new product ''could file an application for contract market designation under the regular or fast track procedures, thereby preventing the exchange that is ready to list the new product sooner from using the pilot procedure to exploit its timing advantage.'' CME comment letter at 4–5. However, as the Commission pointed out in the notice,

> exchanges would not be able to use this proposed rule to forestall a competitor from introducing a new contract * * *. [N]othing would prevent the second exchange from filing an application for review and approval by the Commission on its own merits.

64 FR 40531, n. 19. Presumably were the second exchange really further along in developing a new contract, it would retain its timing advantage by being the first approved, while the exchange, which had filed an incomplete application preemptively, continued its contract development.[22] Accordingly, the Commission is adopting the provision as proposed. If in practice the rule is subject to the ''competitive gamesmanship'' postulated by the CME, the Commission will propose deleting it.[23]

[19] It is not unusual for contract markets currently to list for simultaneous trading an ''A'' and a ''B'' contract when substantial amendments to a contract's terms have been made and the board of trade wishes to list nearby trading months with the amended contract terms.

[20] Proposed rule 5.3 (c) provided that boards of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under the rule. This is to make operative section 5a(8) of the Act which requires each contract market to enforce its rules which have been approved by the Commission, which have become effective under section 5a(a)(12) of the Act or which ''must be enforced pursuant to any commission rule. * * *'' As self-regulatory organizations, boards of trade are expected to follow, be bound by, and to enforce their rules. This provision requires that boards of trade trading contracts pursuant to this rule adhere to this high standard. No comments specifically discussed this provision and the Commission is adopting it as final.

[21] The Commission has approved contract amendments for implementation in trading months with open interest only where implementation of the proposed rule change would not affect the value of existing positions or traders had notice of the impending change prior to opening their positions.

[22] In this regard, fast-track approval procedures are available only for applications for contract market designation which are not amended once filed.

[23] The CME also suggests that the language of the proposed rule be modified to make clear that ''an exchange is not prevented from using the pilot procedure to expedite listing a new contract even though it had originally submitted the same contract to the CFTC for pre-approval under the regular or fast track procedures.'' CME comment letter at 4. Nothing in the Act or Commission rules prevents an exchange from withdrawing an application for contract market designation at any

Continued

The Commission also proposed that rule 5.3 not be able to be used ''as a means of evading an adverse Commission proceeding involving the same or a substantially similar contract.'' 64 FR 40531. As the Commission explained in the Notice of Proposed Rulemaking:

> Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a ''new'' contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to the original, designated contract.

Id. One commenter, the MGE, discussed this provision, noting that it ''believes the Commission's proposed rule adequately prevents attempts by exchanges to use the predesignation listing to evade an adverse Commission proceeding involving the same or similar contract * * *.'' The Commission is adopting the limitation as proposed, and notes that it applies to all boards of trade, not just to the respondent in the adverse action.[24]

Finally, rule 5.3 as proposed would not apply to futures contracts on stock indexes, commodities which are subject to the specific approval procedures of the Johnson-Shad jurisdictional accord.[25] That limitation is statutory in origin and is adopted as proposed.

IV. Section 4(c) Findings

Commission rule 5.3 was proposed under section 4(c) of the Act, which grants the Commission broad exemptive authority. In proposing rule 5.3, the Commission found that

> because the proposed rule applies to contracts listed on designated exchanges subject to the self-regulatory requirements of the Act, * * * all traders are ''appropriate'' for application of this proposed exemptive rule. Moreover, for the reasons explained above, the Commission believes that the proposed rule would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act.

64 FR 40532. The Commission specifically requested comment on its findings.

The CME and the CBT both objected that the Commission should not apply the exemptive criteria of section 4(c)(2) of the Act because in their view, ''the standards of Section 4(c)(1) apply to exemptive relief for existing exchanges with contract designation in place.'' CBT comment letter at n.1; *See also,* CME comment letter at n.1. However, section 4(c)(2) of the Act provides that the Commission shall grant an exemption from the requirements of section 4(a) of the Act only if certain specified conditions are met. Section 4 (a)(1) of the Act provides that to be lawful, transactions must be ''conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' *for such commodity.*'' 7 U.S.C. 6(a)(1) (emphasis added). Rule 5.3 exempts boards of trade from that designation requirement. Thus, an exemption under section 4(c)(2) of the Act is necessary and its criteria for exemption must be satisfied for futures contracts to be lawfully traded on a board of trade pursuant to rule 5.3 without Commission designation in that commodity.[26] The Commission in the Notice of Proposed Rulemaking found that proposed rule 5.3 met the criteria for exemption.[27]

The FIA disagreed with the Commission's findings that the proposed rule met those criteria. It concluded that because the proposed rule ''would create both practical and legal uncertainty with respect to any contract listed under the revised procedures * * * [it] question[s] whether adoption of the proposed rule 'would be consistent with the public interest.' '' FIA comment letter 1. The Commission has addressed the basis for FIA's questioning whether adoption of the proposed rule would be in the public interest by modifying the final rule as recommended by FIA and the other commenters.

The Commission's section 4(c) findings were based, in part, on proposed rule 5.3's provision that, after having been listed for trading, contracts were required to be designated and their terms and conditions approved by the Commission. The Commission noted that proposed rule 5.3 would have preserved the public interest in Commission approval of new contracts and of contract amendments. That interest, it explained, arose because ''appropriate contract design is the best deterrent to market manipulation, price distortion or market congestion * * *. [C]ontract approval assures that contracts meet these widely-accepted design criteria.'' 64 FR 40530. The Commission further noted, however, that the proposed rule was ''consistent with the spirit of the Act's provision which contemplates that in certain instances exchanges may make proposed rules effective pending Commission action.'' 64 FR 40531.

The exchange commenters disagreed that there was a public interest in Commission designation of contracts and approval of their terms and conditions. The NYBOT countered that:

> An effective market surveillance system is the best way to avoid such market situations. Therefore, to us it is most important that an exchange has a self-regulatory track record to ensure that trading will be conducted in a fair and orderly manner. We believe the sophisticated systems developed over decades of experience, coupled with the oversight provided by the Commission, have proven to be exceptionally effective in identifying and dealing with the types of market situations which the Commission

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time. Accordingly, an exchange could have simply withdrawn its application for contract market designation and listed the contract under the rule as proposed. Nevertheless, the Commission is making explicit in the rule that this limitation applies only to a board of trade other than the one with the pending application. Of course, an exchange which abandons a pending application for contract market designation in favor of listing without Commission approval must be able to make the required certification taking into consideration any adverse information arising during consideration of the application. Moreover, in order to conserve its resources, the Commission may determine not to continue processing an application for contract market designation if it is listed for trading while the application is pending.

[24] This limitation applies to all boards of trade because the Commission presumes that no exchange could make the required certification for a new contract with the same terms and conditions as one against which the Commission has initiated an adverse action. However, a competing exchange would not be estopped from listing a contract for the same commodity but which did not include the allegedly violative terms or conditions. On the other hand, the respondent exchange might be precluded from doing so if listing the revised contract were determined to be an attempt to frustrate the prosecution of the adverse action or in violation of a Commission Order issued in the course of the adverse action.

[25] *See,* section 2(a)(1)(B) of the Act.

[26] For administrative convenience, the Commission treats separately traded contracts for the same generic commodity with differing terms and conditions and pricing characteristics as separate commodities for purposes of contract market designation. See, Part 5, Appendix A, 64 FR 29221 (June 1, 1999).

[27] Section 4(c)(2) of the Act provides that: The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the Commission determines that—(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and (B) the agreement, contract, or transaction—(i) will be entered into solely between appropriate persons; and (ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

seeks to protect against. This track record strongly suggests that contract approval, while arguably useful in an era before exchanges had developed these self-regulatory systems and procedures, no longer serves any positive purpose.

NYBOT comment letter at 3. The CME concurred, stating that it did not agree with the premise that ''in-depth CFTC review of new contract applications serves an important public purpose by providing an opportunity for public comment and by improving contract design.'' The CME explained that it agrees with those objectives, ''has a strong business interest in designing its contracts so that they are not readily susceptible to manipulation'' and in developing contracts ''talks with commercial users.'' CME comment letter at 3. NYMEX argued that:

> in view of the powerful economic forces that drive exchanges to be thorough and vigilant in developing a new product, the Commission should be confident in allowing exchanges to list contracts for trading and implement rules without detailed prior review. In this regard, NYMEX finds it significant that * * * British exchanges are not currently subject to a preapproval process for their contracts and rules.

NYMEX comment letter at 4; *But see,* ''Futures Exchange and Contract Authorization Standards and Procedures in Selected Countries,'' Office of International Affairs, Commodity Futures Trading Commission, August 3, 1999.

The Commission agrees with the exchanges that a strong self-regulatory program and an effective market surveillance system are necessary to remedy adverse market situations and to deter potential manipulators. However, it is generally accepted that appropriate contract design is a key component of an effective market surveillance system.[28] In this regard, exchanges have a strong business incentive to design contracts that will not be susceptible to manipulation.[29]

Prior to the 1974 amendments to the Act, the statutory scheme did not require the Commodity Exchange Authority, the Commission's predecessor agency, to approve in advance the trading of all new futures contracts,[30] nor did it require agency approval of exchange rules before they became effective. Rather, exchange rules amending the terms and conditions of futures contracts were subject only to disapproval after becoming effective.[31] The prior approval requirements were included in the 1974 amendments to the Act as one of a number of measures to strengthen federal regulatory oversight of the futures industry. These measures included the Commission's authority under section 8a(7) of the Act to alter or amend contract market rules and its section 8a(9) emergency authority.

The exchanges argue forcefully that their ability to counter competition from foreign exchanges requires that the Commission rely less on its prior-approval authority. They argue that the ability to list contracts without Commission approval is central to their ability to meet foreign competition. To date, relatively few contracts traded on foreign exchanges directly compete with contracts traded on U.S. exchanges, and for those that do, few, if any, U.S. contracts have been displaced by a foreign competitor.[32] Nevertheless, the Commission believes that, consistent with its mandate to protect market integrity, financial integrity, guard against market manipulation and protect customers, it should ensure that the regulatory scheme not unnecessarily impede the exchanges from competing. By this rulemaking, the Commission is exercising its mandate flexibly to accomplish those goals.

The public interest in the integrity and fairness of the futures markets can be achieved through greater reliance by the Commission on its surveillance and enforcement authorities. As the exchanges recognize, the Commission has available to it strong oversight authorities over boards of trade and their contracts without approving an application for contract market designation and the contract's terms. As one exchange noted, ''by letting such an exchange list new contracts without Commission approval * * * the CFTC would not have lost oversight authority over the exchange or its contracts.'' NYBOT comment letter at 2. The CBT observed that, ''eliminating the requirement of Commission approval of new contracts would not affect the Commission's general authority over a contract's terms and conditions.'' CBT comment letter at 3.

For the reasons explained above, the Commission believes that rule 5.3 is consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act. Moreover, because the rule applies to contracts listed on exchanges subject to the self-regulatory requirements of the Act, the Commission finds all traders are ''appropriate'' for application of this exemptive rule under section 4(c) of the Act.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These final amendments permit exchanges under section 4(c) of the Act to list new contracts for trading without designation as a contract market in that contract. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

Guideline No. 1 (17 CFR Part 5 Appendix A), which sets forth the requirements for applications for contract designation, contains information collection requirements. As required by the PRA of 1995 (Pub. L. 104–13 (May 13, 1996)), the Commission submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)) and indicated that there was no implication

[28] The view that appropriate contract design is an important component of a market surveillance program and deters manipulation, price distortion and market congestion is widely accepted internationally. *See,* the Tokyo Communique on Supervision of Commodity Futures Markets issued at the Tokyo Commodity Futures Markets Regulators' Conference on October 31, 1997.

[29] One commenter, the National Grain and Feed Association, supported proposed rule 5.3, in part, because ''industry groups will still have an opportunity to comment during the formal approval process.'' The final rule no longer provides a formal opportunity for comment by industry groups. However, the exchanges have assured the Commission that it is their practice to seek out such views when designing their contracts. Moreover, the Commission will continue to provide a forum for industry groups to make their views known to it regarding the terms and conditions of all contracts, including newly listed contracts.

[30] Prior to 1974, the Act defined ''commodity'' by specific enumeration. Accordingly, new contracts that were not so enumerated were unregulated. The definition of commodity periodically would be updated to include additional commodities in which trading had commenced on those exchanges which traded other regulated contracts. For example, livestock and livestock products were added to the Act's definition of ''commodity'' as part of the 1968 amendments to the Act, after such contracts had already begun trading on the Chicago Mercantile Exchange. Pub. L. No. 90–258 § 1(a), 49 Stat. 1491 (1968). Other futures exchanges, including the Commodity Exchange, Inc. and the former Coffee and Sugar, and the Cocoa exchanges, operated wholly outside of the regulatory scheme.

[31] *See,* Pub. L. No. 90–258, § 23, 82 Stat. 33 (1968).

[32] *See,* ''The Global Competitiveness of U.S. Futures Markets Revisited,'' Report of the Division of Economic Analysis to the Commodity Futures Trading Commission (October, 1999).

for the paperwork burden. Based on the comments the Commission received in response to the proposed rulemaking, the Commission is revising the paperwork burden associated with the new rule as reflected below.

OMB previously approved the collection of information related to this rule as information collection 3038–0022, Regulations Pertaining to the Responsibilities of Contract Markets and Their Members. The final rule adopted by the Commission, which has been submitted to OMB for approval, has the following paperwork burden:

Number of respondents: 11.

Estimated average hours per response: 29.

Frequency of response: On occasion.

Number of responses per year: 11.

Annual reporting burden: 319.

This represents a reduction of 1073 burden hours based on the Commission's estimation of the number of contract market designation applications that would no longer be submitted under regular or fast-track procedures. Persons wishing to comment on the paperwork burden contained in the final rules may contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 5

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 5—CONTRACT MARKET COMPLIANCE

1. The authority citation for Part 5 is revised to read as follows:

Authority: 7 U.S.C. 6(c), 6c, 7, 7a, 8 and 12a.

2. Part 5 is amended by adding a new § 5.3 to read as follows:

§ 5.3 Listing contracts for trading by exchange certification.

(a) Notwithstanding the provisions of section 4(a)(1) of the Act or § 33.2 of this chapter, a board of trade may list for trading contracts of sale of a commodity for future delivery or commodity option contracts, if the board of trade:

(1) Is designated under sections 4c, 5, 5a(a) and 6 of the Act as a contract market in at least one commodity which is not dormant within the meaning of § 5.2 of this part;

(2) In connection with the trading of the contract complies with all requirements of the Act and Commission regulations thereunder applicable to designated contract markets, except for the requirement under section 5a(a)(12) of the Act and § 1.41(b) of this chapter that the terms and conditions of the contract be approved by the Commission;

(3) Files with the Commission at its Washington, D.C., headquarters and the regional office having jurisdiction over it a copy of the contract's initial terms and conditions and a certification by the board of trade that the contract's initial terms and conditions neither violate nor are inconsistent with any provision of the Commodity Exchange Act or of the rules thereunder, and the filing is received no later than the close of business of the business day preceding the contract's initial listing;

(4) Files with the Commission at its Washington, D.C., headquarters and the regional office having jurisdiction over it the text of each amendment to the contract terms and conditions (with deletions in brackets and additions underscored), a brief explanation of the amendment including a description of any substantive opposing views by members of the board of trade or others and a certification by the board of trade that the amendment neither violates nor is inconsistent with any provision of the Commodity Exchange Act or of the rules thereunder, and the filing is received no later than the close of business of the business day preceding the amendment's implementation;

(5) Implements amendments to the contract terms and conditions only in trading months having no open interest at the time of implementation; and

(6) Identifies the contract in its rules as listed for trading pursuant to exchange certification.

(b) The board of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under this section.

(c) Contracts listed for trading pursuant to this section shall not be void or voidable as a result of:

(1) A violation by the board of trade of the provisions of this section; or

(2) Any Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or supplement a term or condition under section 8a(7) of the Act, to amend the contract's terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or any other proceeding the effect of which is to disapprove, alter, supplement, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

(d) Except as specified in paragraph (a) of this section and unless the context otherwise requires, the board of trade listing contracts, and the contracts listed, for trading under this section shall be subject to all of the provisions of the Act and Commission regulations thereunder which are applicable to a ''board of trade,'' ''board of trade licensed by the Commission,'' ''exchange,'' ''contract market,'' ''designated contract market,'' or ''contract market designated by the Commission'' as though those provisions were set forth in this section and included specific reference to contracts listed for trading pursuant to this section.

(e) The provisions of this section shall not apply to :

(1) A contract subject to the provisions of section 2(a)(1)(B) of the Act;

(2) A contract to be listed initially for trading that is the same or substantially the same as one for which an application for contract market designation under sections 4c, 5, 5a and 6 of the Act or § 5.1 of this part already was filed for Commission approval by another board of trade while the application is pending before the Commission;

(3) A contract to be listed initially for trading that is the same or substantially the same as one which is the subject of a pending Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or supplement a term or condition under section 8a(7) of the Act, to amend terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or to any other proceeding the effect of which is to disapprove, alter, supplement, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

Issued in Washington, DC, this 17th day of November, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30510 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 375

RIN 3220–AB36

Plan of Operation During a National Emergency

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to update its emergency procedures in light of recent internal reorganizations. This would allow the Board to more effectively continue service and handle payments to civilian employees and their dependents in the event of a national emergency.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Part 375 of the regulations of the Board provides for operations of the Board during emergencies. This rulemaking amends part 375 to refer to procedures of the Office of Personnel Management regarding advances, evacuation payments, and allowances for civilian employees in time of national emergency. Also, the rulemaking would update references to offices in the Board to reflect recent reorganizations.

On August 17, 1999, the Board published this rule as a proposed rule (64 FR 44670), inviting comments on or before October 18, 1999. No comments were received.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 375

Civil defense, Railroad retirement, Railroad unemployment insurance.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is amended as follows:

PART 375—PLAN OF OPERATION DURING A NATIONAL EMERGENCY

1. The authority citation for part 375 is revised to read as follows:

Authority: 45 U.S.C. 231f(b)(5), 362(l).

2. In § 375.1, paragraph (a) is revised, and a new paragraph (c) is added to read as follows:

§ 375.1 Purpose.

(a) The Railroad Retirement Board has adopted a plan to provide basic organization and methods of operation which may be needed to continue uninterrupted service during a period of national emergency as defined in in § 375.2.

* * * * *

(c) For purposes of Government-wide uniformity, the procedures of the Board regarding payments during evacuation to employees and their dependents shall conform to those contained in subpart D of part 550 of the regulations of the Office of Personnel Management pertaining to ''Payments During Evacuation'' (5 CFR part 550, subpart D).

§ 375.2 [Amended]

3. Section 375.2 is amended by removing ''chairman'' and adding in its place ''Chair'' and by adding ''or her'' after ''his'' in two places.

4. In § 375.5, revise paragraphs (a), (b) introductory text, (b)(1) and (b)(2) to read as follows, and amend paragraph (b)(3) by removing ''Chairman'' and adding in its place ''Chair,'' by removing ''bureau'' wherever it appears and adding ''office'' in its place, and by adding ''or her'' after ''his'' wherever it appears:

§ 375.5 Organization and functions of the Board, delegations of authority, and lines of succession.

(a) During a national emergency, as defined in § 375.2, the respective functions and responsibilities of the Board shall be, to the extent possible, as set forth in the U.S. Government Manual, which is published annually by the Office of the Federal Register, and is available on the Internet at http://www.nara.gov/fedreg/, under *Other Publications*.

(b) The following delegation of authority is made to provide continuity in the event of a national emergency:

(1) The Chair of the Board shall act with full administrative authority for the Board.

(2) In the absence or incapacity of the Chair, the authority of the Chair to act shall pass to the available successor highest on the following list:

Labor Member of the Board
Management Member of the Board
Director of Administration
Director of Programs
General Counsel
Chief Information Officer
Director of Supply and Service
Regional Directors in order of length of Board service.

* * * * *

5.–6. Paragraphs(a), (b)(1), (b)(2) introductory text, and (c)(1) of § 375.6 are revised to read as follows:

§ 375.6 Personnel, fiscal, and service functions.

(a) *Personnel.* In a national emergency as defined in § 375.2, when it is no longer possible for a regional director to communicate with the Chair or his or her successor as set forth in § 375.5, complete responsibility and authority for administration of the personnel function are delegated to such regional director for his or her respective geographic area.

(b) *Fiscal.* (1) In a national emergency, as defined in § 375.2, the Chair of the Board or his or her successor, as set forth in § 375.5, shall designate an individual to assume the responsibilities of the Chief Financial Officer in the event that he or she is unable to assume those responsibilities.

(2) In a national emergency, incumbents of the following positions are hereby authorized to appoint emergency certifying officers:

Director of Administration
Director of Programs
Chief Financial Officer
Regional Directors.

* * * * *

(c) *Supply and service.* (1) In a national emergency, as defined in § 375.2, complete responsibility and authority for the procurement of needed supplies, equipment, space, communications, transportation, and repair services, are delegated to each regional director for his or her geographic area.

* * * * *

§ 375.7 [Amended]

7. Section 375.7 is amended as follows:

(a) In paragraph (a)(2), by removing ''Director of Retirement Claims'' and adding in its place ''Director of Programs''.

(b) In paragraph (b)(1)(ii), by removing ''such as claim file folders or magnetic tape master records''.

(c) In paragraph (b)(1)(vi), by removing ''and in the regions'' and ''or if those offices become inoperative''.

(d) In paragraph (b)(2), by removing ''Director of Unemployment and

Sickness Insurance'' and adding in its place ''Director of Programs''.

(e) Paragraph (c) is removed.

8. Section 375.8 is revised to read as follows:

§ 375.8 Regulations for employers.

(a) In a national emergency, as described in § 375.2, employers shall continue to follow, to the greatest extent possible, the requirements pertaining to employers in subchapters A, B, and C of this chapter.

(b) Where a national emergency, as described in § 375.2, prevents an employer from following any requirement imposed by paragraph (a) of this section, the employer shall comply with such requirement as soon as possible after the cessation of the national emergency.

(c) In a national emergency, as defined in § 375.2, all communications by employers shall be directed as set forth in § 375.4.

Dated: November 18, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30792 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Lincomycin Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Alpharma Inc. The ANADA provides for use of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed ANADA 200–233 that provides for use of Linco Soluble (lincomycin hydrochloride soluble powder) to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis caused by *Clostridium perfringens* susceptible to lincomycin.

The ANADA is approved as a generic copy of Pharmacia & Upjohn's NADA 111–636 Lincomix® Soluble Powder. ANADA 200–233 is approved as of September 22, 1999, and 21 CFR 520.1263c(b) is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1263c [Amended]

2. Section 520.1263c *Lincomycin hydrochloride soluble powder* is amended in paragraph (b) by adding at the end the sentence ''Approval for use of 40-gram packet to No. 046573 in § 510.600(c) of this chapter''.

Dated: November 10, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–30701 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfamethazine Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Lloyd, Inc. The NADA provides for oral use of sulfamethazine tablets for beef cattle and nonlactating dairy cattle to treat diseases caused by sulfamethazine sensitive organisms.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Lloyd, Inc., P.O. Box 86, 604 West Thomas Ave., Shenandoah, IA 51601, filed NADA 140–908 that provides for oral use of Veta–Meth (sulfamethazine) tablets for beef cattle and nonlactating dairy cattle to treat diseases caused by sulfamethazine sensitive organisms such as bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*F. necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* spp.), coccidiosis (*Eimeria bovis*, *E. zurnii*).

The NADA is approved as of September 16, 1999, and the regulations are amended in § 520.2260a(a)(1) (21 CFR 520.2260a(a)(1)) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, the regulation currently contains a paragraph reflecting that approval of NADA's were based on National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation

evaluations of the products and FDA's conclusions based on those evaluations. Enactment of the Generic Animal Drug and Patent Term Restoration Act of 1988 has superseded the approval of NADA's based on NAS/NRC evaluations. At this time, the NAS/NRC status paragraph is removed.

Also, the heading of § 520.2260a is revised to include tablets in addition to oblets and boluses.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.2260a is amended by revising the section heading and paragraph (a)(1), and by removing paragraph (a)(4) to read as follows:

§ 520.2260a Sulfamethazine oblet, tablet, and bolus.

(a)(1) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, and 15-gram sulfamethazine oblet in beef cattle, nonlactating dairy cattle, and horses. See No. 061690 in § 510.600(c) of this chapter for use of 5-, 15-, and 25-gram tablet in beef and nonlactating dairy cattle.

* * * * *

Dated: November 10, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–30703 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4007

RIN 1212–AA82

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The PBGC is amending its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for ''safe-harbor'' relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

DATES: *Effective Date:* December 27, 1999.

Applicabilitly Dates: The amendment to the safe-harbor rules will apply to PBGC initial determinations and final decisions on requests for reconsideration (''PBGC determinations'') with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999. The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; 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: On April 27, 1999 (at 64 FR 22589), the PBGC published a proposed rule to amend its regulation on Payment of Premiums (29 CFR part 4007). The proposed amendments would make it easier to qualify for ''safe-harbor'' relief from late payment penalty charges and would codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

The PBGC received two comments on the proposed rule. Both commenters praised the PBGC's efforts to expand safe-harbor relief but suggested that the amendment to the safe-harbor rules, which in the proposed rule would have applied with respect to premiums for 1999 and later plan years, should apply with respect to premiums for prior plan years as well. In response to the comments, the PBGC will provide the expanded safe-harbor relief to all PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999, as well as to all PBGC determinations with respect to premiums for 1999 and later plan years. Applying the expanded safe-harbor relief with respect to premiums for prior plan years will further encourage self-correction of premium underpayments. In all other respects, the PBGC is issuing the final regulation without change from the proposed regulation.

Amendment to Safe-Harbor Rules

The proposed rule expanded the PBGC's safe-harbor rules under the current regulation to encourage self-correction in three situations. As explained in detail in the preamble to the proposed rule, a plan's premium due dates depend upon whether the plan is ''small'' or ''large.'' The determination of whether a plan is ''small'' or ''large'' is based on the actual number of participants for whom premiums were payable for the prior year (not necessarily the number of participants reported on the PBGC Form 1 for the prior year).

The premium filing due date for small plans (those with fewer than 500 participants for the prior year) for both the flat-rate premium (for single-employer and multiemployer plans) and the variable-rate premium (for single-employer plans) is the fifteenth day of the tenth full calendar month in the premium payment year. For calendar year plans, this date is October 15 of the premium payment year. (For convenience, the discussion in this preamble assumes that all plans are calendar year plans.)

For large single-employer and multiemployer plans (those with 500 or more participants for the prior year), the due date for the flat-rate premium is the last day of the second full calendar month in the premium payment year (February 28 of the premium payment year). If the number of participants for whom premiums are payable for the premium payment year is not known by

February 28 of the premium payment year, the plan administrator must make an ''estimated'' payment by February 28 of the premium payment year and a ''reconciliation'' payment by October 15 of the premium payment year. The due date for the variable-rate premium for large single-employer plans is also October 15 of the premium payment year.

Because plan administrators often do not know the exact participant count for the premium payment year by February 28 of the premium payment year, the current regulation provides a safe harbor from late payment penalty charges, provided certain requirements are met. (There is no safe harbor from late payment interest charges.) A plan administrator must do two things to qualify for the safe harbor and therefore avoid late payment penalty charges:

- By February 28 of the premium payment year, the plan administrator must pay the lesser of: (1) 90% of the flat-rate premium due for the premium payment year; or (2) 100% of the flat-rate premium that would be due for the premium payment year, if that amount were determined by multiplying the actual participant count for the prior year by the flat premium rate for the premium payment year.
- By October 15 of the premium payment year, the plan administrator must pay any remaining portion of the flat-rate premium for the premium payment year.

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator corrects a premium underpayment or fails to make a timely reconciliation payment. The amendment addresses three situations where this can happen. The preamble to the proposed rule contains detailed examples of how the amendment would apply in these situations.

The amendment will affect only penalty charges. It will not affect interest charges on any premium underpayment.

500-Participant Threshold

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator, relying on a reported participant count of less than 500 for the prior year, fails to make an estimated payment by February 28 of the premium payment year and later corrects the prior year's participant count to 500 or more. Under the amendment, whether the PBGC will assess a late payment penalty charge for failure to make an estimated payment for the premium payment year by February 28 of the premium payment year is determined based on the lesser of (1) the number of participants *reported* for the prior year, or (2) the *actual* number of participants for the prior year. Thus, the PBGC will not assess a penalty charge for failing to make an estimated payment for the premium payment year by February 28 of the premium payment year if the number of participants *reported* for the prior year is fewer than 500. For this purpose, the number of participants reported for the prior year is the number of participants last reported for the prior year (on the PBGC Form 1 or an amended PBGC Form 1) by February 28 of the premium payment year.

Estimate Based on Prior Year's Form 1 Participant Count

Under the current regulation, a plan can lose safe-harbor relief if the plan administrator, in computing the estimated flat-rate premium payment due on February 28 of the premium payment year, relies on a participant count reported on the prior year's PBGC Form 1 that is later corrected because it is determined to be too low. Under the amendment, the PBGC will determine whether the estimated payment reflected at least 100% of the prior year's participant count by using the lesser of: (1) the number of participants reported on the prior year's PBGC Form 1 or amended PBGC Form 1 (filed by February 28 of the premium payment year); or (2) the actual number of participants for the prior year.

PBGC Form 1 Reconciliation Payment Underpaid or Late

Under the current regulation, a plan loses safe-harbor relief when the plan administrator timely makes the appropriate estimated payment by February 28 of the premium payment year but fails to make the full PBGC Form 1 reconciliation payment on time. This can occur, for example, if the plan administrator bases the reconciliation payment on a participant count that is too low. (It can also occur if the plan administrator makes the reconciliation payment late.) Under the amendment, payment of any balance of the flat-rate premium due for the premium payment year by October 15 of the premium payment year will no longer be a prerequisite for qualifying for safe-harbor relief.

Amendment to Late Payment Penalty Rate

The regulation also codifies the PBGC's December 2, 1996, policy statement, in which it announced its current two-tiered penalty rate policy for 1996 and later plan years (61 FR 63874). The PBGC will assess a penalty of 1% per month if the premium is paid on or before the date the PBGC issues a written notice that there is or may be a premium delinquency. If the premium is paid after the PBGC notification date, the penalty rate will be 5% per month for all months. The minimum total penalty will continue to be $25, and the penalty will continue to be limited to 100% of the unpaid premium. PBGC notification may take various forms, including a premium bill, a letter initiating a premium compliance review (*i.e.*, an audit), or a letter questioning a failure to make a premium filing. The 5% rate will apply (for all months) to all persons liable for premiums for the plan (*i.e.*, the plan administrator and, for a single-employer plan, each contributing sponsor and each member of any contributing sponsor's controlled group) once this notice is issued to any of those persons.

Miscellaneous

The regulation clarifies that the penalty waiver for premium underpayments paid within 30 days after the date of a PBGC bill applies only to penalty charges accruing after the date of the bill.

The current regulation provides that the PBGC may waive all or part of a late payment penalty charge upon a demonstration of ''good cause.'' The PBGC is changing the standard to ''reasonable cause'' to be consistent with the standard in the PBGC's policy statements on penalties under section 4071 of ERISA (relating to penalties for failure to provide required information on time). This is only a change in terminology that is not intended to alter the substantive requirements for this waiver.

Applicability

The amendment to the safe-harbor rules will apply to PBGC determinations with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999.

The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

Compliance With Rulemaking Guidelines

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

This rule provides relief from premium penalties. The relief is limited to a percentage—generally small—of a plan's premium. While this rule will

result in a positive economic impact for some small entities, the number of small entities for which the impact will be significant is not substantial. The PBGC therefore certifies under section 605(b) of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects in 29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC is amending 29 CFR part 4007 as follows.

PART 4007—PAYMENT OF PREMIUMS

1. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1301(a), 1306, 1307.

2. Section 4007.8 is revised to read as follows:

§ 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The charge will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of $25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph (a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (*e.g.*, a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month (for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waiver.* The PBGC may, upon any demonstration of reasonable cause, waive all or part of a late payment penalty charge.

(d) *Waiver on PBGC's own initiative.* The PBGC may, on its own initiative, waive all or part of a late payment penalty charge.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Safe-harbor relief for certain large plans.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if fewer than 500 participants are reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(g) *Safe-harbor relief for plans that make minimum estimated payment.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if, by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i), the plan administrator pays at least the lesser of—

(1) 90% of the flat-rate premium due for the premium payment year; or

(2) 100% of the flat-rate premium that would be due for the premium payment year if the number of participants for that year were the lesser of—

(i) The number of participants for whom premiums were required to be paid for the plan year preceding the premium payment year; or

(ii) The number of participants reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(h) *Reported participant count.* For purposes of paragraphs (f) and (g)(2)(ii) of this section, the number of participants reported for the plan year preceding the premium payment year is the number of participants last reported under this part to the PBGC (for the plan year preceding the premium payment year) by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i).

Issued in Washington, DC, this 19th day of November, 1999.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 99–30775 Filed 11–24–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[SPATS No. IA–005–FOR]

Iowa Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with certain exceptions and additional requirements, an amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Iowa added revegetation success guidelines to its program. These guidelines include revegetation success standards, statistically valid sampling procedures and techniques for determining revegetation success on areas being restored to various land uses, and normal husbandry practices. Iowa intends to revise its program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Office of Surface Mining, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002. Telephone: (618) 463–6460. Internet: jcoleman@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments

V. Director's Decision
VI. Procedural Determinations

I. Background on the Iowa Program

On January 21, 1981, the Secretary of Interior conditionally approved the Iowa program, effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

II. Submission of the Proposed Amendment

By letter dated September 28, 1998 (Administrative Record No. IA–441), Iowa sent us an amendment to its program under SMCRA. Iowa sent the amendment in response to our letter dated August 1, 1986 (Administrative Record No. IA–280), that we sent to Iowa under 30 CFR 732.17(c). The amendment concerns guidelines for revegetation success and normal husbandry practices, entitled ''Revegetation Success Standards and Statistically Valid Sampling Techniques.''

We announced receipt of the amendment in the October 14, 1998, **Federal Register** (63 FR 55025) and invited public comment on its adequacy. The public comment period closed November 13, 1998. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to Iowa's revegetation success guidelines concerning the definition for ''prime farmland''; plant species for recreational and wildlife areas; reference areas; minimum planting arrangements for recreational, wildlife, and forested lands; and control area adjustments of prime farmland yields. We also identified concerns with Iowa's guidelines for normal husbandry practices. We notified Iowa of these concerns by electronic mail on November 19, 1998 (Administrative Record No. IA–441.6). On August 3, 1999, Iowa sent us a revised amendment dated April 1999 (Administrative Record No. IA–441.7).

Based upon Iowa's revisions to its amendment, we reopened the public comment period in the October 8, 1999, **Federal Register** (64 FR 54840). The public comment period closed on October 25, 1999.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. Revegetation Success Standards and Statistically Valid Sampling Techniques for Mined Lands in Iowa

Iowa submitted revegetation success guidelines that describe the standards and procedures for determining revegetation success on reclaimed mined lands in Iowa. The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that each regulatory authority select revegetation success standards and statically valid sampling techniques for measuring revegetation success and include them in its approved regulatory program. Iowa developed its revegetation success guidelines to satisfy this requirement. In some cases, Iowa's revegetation success guidelines supplement and clarify the performance standards for revegetation success contained in the Iowa program, but they do not replace or change any of them.

The guidelines include revegetation success standards and statically valid sampling techniques for measuring revegetation success of reclaimed pastureland; cropland; industrial, commercial, or residential lands; recreational, wildlife, or forested lands; and remined lands in accordance with Iowa's counterparts to the Federal regulations at 30 CFR 816.116 and 817.116. The guidelines also include revegetation success standards and statically valid sampling techniques for restoring soil productivity of prime farmland soils in accordance with Iowa's counterparts to the Federal regulations at 30 CFR 823.15. Iowa's standards, criteria, and parameters for revegetation success reflect the extent of cover, species composition, and soil stabilization required in the Federal regulations at 30 CFR 816.111 and 817.111. As required by the Federal regulations at 30 CFR 816.116(a)(2) and (b), 817.116(a)(2) and (b), and 823.15, Iowa's revegetation success standards include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking suitable to the approved postmining land uses. Iowa's guidelines specify the procedures and techniques to be used for sampling, measuring, and analyzing vegetation parameters.

Ground cover, production, and stocking suitable to the approved postmining land uses, except prime farmland, are considered equal to the approved success standard when they are not less than 90 percent of the success standard. The average production of crops for prime farmland soils must equal or exceed the average production of the same crops for the same or similar unmined prime farmland soils. Sampling techniques for measuring success use a 90-percent statistical confidence interval for all land uses. We found that use of these procedures and techniques will ensure consistent, objective collection of vegetation data.

For the above reasons, we find that, except as discussed in the following findings, the revegetation success standards and statically valid sampling techniques for measuring revegetation success contained in Iowa's revegetation success guidelines satisfy the requirements of 30 CFR 816.116(a)(1), 817.116(a)(1), and 823.15.

1. Reference Areas

Section III, part F of Iowa's revegetation success guidelines contains requirements for the use of reference areas for establishing revegetation success standards. Permittees can use data from reference areas for direct comparison only when Iowa has approved the use of reference areas in the permit. When reference areas are used, the reference areas will serve as the data set for establishing the revegetation success standard. The reclaimed areas will be directly compared to the revegetation success standard developed from the reference area production yields for the same growing season. Management of all of the reference areas and the reclaimed areas must be identical in all aspects. Part F contains examples of the criteria that must be met on both the reclaimed and reference areas. Reference areas must be within a five-mile radius of the permit site, unless the Division approves a site outside of the five-mile radius that has special features which cannot be found closer to the permit site. Part F also contains additional prime farmland reference area requirements, including examples of calculations for developing corn and soybean productivity success standards.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success include criteria representative of unmined lands in the area being reclaimed in order to evaluate the appropriate vegetation parameters of ground cover, production, and stocking. The Federal regulations at 30 CFR 816.116(b) and 817.116(b) allow the use of reference areas for determining revegetation success. The Federal regulation at 30 CFR 823.15(b)(2) requires that permittees measure soil productivity on a representative sample or on all of the

mined and reclaimed prime farmland areas using the reference crop determined under 30 CFR 823.15(b)(6). It also requires that they use a statistically valid sampling technique at a 90-percent or greater statistical confidence level as approved by the regulatory authority in consultation with the U.S. Natural Resources Conservation Service (NRCS). The Federal regulation at 30 CFR 823.15(b)(4) requires that permittees manage the reclaimed areas in the same manner as nonmined prime farmland in the surrounding area. The Federal regulations at 30 CFR 823.15(b)(7) allow the use of reference crop yields of representative local farms in the surrounding area for determining revegetation success for prime farmland, with concurrence by the NRCS. Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence of consultation when developing its revegetation success guidelines for reference areas (Administrative Record No. IA–441.5). We find that Iowa's requirements for reference areas are consistent with the Federal requirements at 30 CFR 816.116(a)(2) and (b), 817.116(a)(2) and (b), and 823.15(b)(2), (4), and (6). Therefore, we are approving the requirements in section III, part F. However, the fax did not contain specific concurrence by the NRCS for Iowa's use of the current yield records of reference areas for measuring productivity on prime farmland, as required by the Federal regulations at 30 CFR 823.15(b)(7). Because Iowa did not submit evidence of concurrence by the NRCS, as required by the Federal regulations, we are not approving the use of reference areas for determining success of productivity on prime farmland areas. We are requiring Iowa to submit evidence of concurrence by the NRCS before it allows permittees to use reference area revegetation success standards for prime farmland. We are approving Iowa's guidelines on reference areas for all other applicable land uses.

2. Prime Farmland

Section IV, part A contains the revegetation success standards for prime farmland. Section IV, part G contains a method for adjusting the average prime farmland reference crop yield for adverse or beneficial climatic conditions.

a. Section IV, part A, provides that in order to establish revegetation success on prime farmland soils, the production of corn, soybeans, or a combination of corn and soybeans must produce yields equal to or greater than the yields of the same crops in similar unmined prime farmland soils for three years of the five-year responsibility period. Corn and soybeans are the most common deep-rooted prime farmland crops in Iowa. The Division will consider restoration of prime farmland soil productivity achieved each year that the average yield during the measurement period exceeds or equals the average yield for the same prime farmland soil map units as provided in the County Soil Map Unit Yield Data tables for that county. These tables were developed from a U. S. Department of Agriculture-Natural Resources Conservation Service State Soil Survey Database. Part A.1 contains the method of determining the average yield of corn or soybean productivity using the County Soil Map Unit Yield Data tables located in Appendices 1 through 4. Part A.1 includes examples of how to calculate the corn and soybean success standards for prime farmland soils. At part A.2, Iowa also allows permittees to use prime farmland reference area yield data instead of the County Soil Map Unit Yield Data to prove productivity. Permittees would calculate corn or soybean productivity revegetation success standards from the prime farmland reference area yield data using the methods contained in part A.1.

The Federal regulations at 30 CFR 823.15(b)(7) allow permittees to prove restoration of prime farmland soil productivity in two ways. At 30 CFR 823.15(b)(7)(i), the permittee can use the current yield records of representative local farms in the surrounding area (reference areas) to prove productivity, with concurrence by the NRCS. At 30 CFR 823.15(b)(7)(ii), the permittee can use the average county yields recognized by the USDA, which have been adjusted by the NRCS for local yield variation. Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence of consultation when developing its revegetation success guidelines for prime farmland (Administrative Record No. IA–441.5). We find that Iowa's requirements for revegetation and restoration of prime farmland soil productivity are consistent with the Federal requirements at 30 CFR 823.15(b)(7). Therefore, we are approving the requirements in section IV, parts A and A.1. However, in section IV, part A.2, Iowa proposed to use reference areas. The evidence submitted by Iowa did not contain specific concurrence by the NRCS for Iowa's use of the current yield records of reference areas for measuring productivity on prime farmland, as required by 30 CFR 823.15(b)(7)(i). Because Iowa did not submit evidence of concurrence by the NRCS, we are not approving Iowa's use of reference areas for determining success of productivity on prime farmland areas. As discussed in Finding A.1, we are requiring Iowa to submit evidence of concurrence by the NRCS before allowing permittees to use reference area revegetation success standards for measuring productivity on prime farmland.

b. Section IV, parts A.1(a) and (b) allow permittees to adjust average yield values for weather conditions by one of two methods. Part A.1(a) allows the permittee to use control areas to adjust the County Soil Map Unit Yield Data in accordance with the requirements of section IV, part G. Part A.1(b) allows the permittee to get written concurrence from the NRCS to adjust the calculated County Soil Map Unit Yield Data to reflect a one year disease, pest, or weather induced variation during a specific growing season. Section IV, part G contains the requirements and methods for control area adjustments of prime farmland revegetation success standards developed from the County Soil Map Unit Yield Data. Control areas must contain one or more of the soil map units which exist in the reclaimed tract. The control area data is used to develop a climatic correction factor. The correction factor is used to adjust the revegetation success standards developed for prime farmlands for yield variations caused by adverse or beneficial climatic conditions during the crop year. Permittees can use control areas to develop a revegetation success standard adjusted for climatic condition only when the Division approves its use in the permit for that site. The control area must receive the same management as the reclaimed area. If the Division approves the use of control areas, the permittee must use the control area climatic correction factor in all production years within the responsibility period, whether it increases or decreases the revegetation success standards.

The Federal regulations at 30 CFR 823.15(b)(8) provide that the permittee may adjust the average reference crop yield for disease, pest, and weather-induced seasonal variations, with the concurrence of the NRCS. Therefore, we are approving Iowa's provision at section IV, part A.1(b) that requires the permittee to get written concurrence from the NRCS to adjust the calculated County Soil Map Unit Yield Data corn or soybean productivity revegetation success standards for disease, pest, or weather-induced seasonal variations. However, Iowa did not provide evidence that the NRCS concurred with Iowa's provisions at section IV, part G

concerning the methods used to adjust the County Soil Map Unit Yield Data for climatic conditions using control areas. Therefore, we are not approving Iowa's provisions at section IV, part G that contain the requirements and methods for adjusting prime farmland revegetation success standards using control areas. Our decision also makes the provision that allows the use of control areas at section IV, part A.1(b) moot. We are requiring Iowa to either remove section IV, part G from its revegetation success guidelines or submit evidence that the NRCS concurs with this provision.

3. Recreational, Wildlife, and Forested Lands

Section IV, part E contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. The permittee must first meet all of the general erosion control and ground cover requirements of section III, part A and the general revegetation requirements of section III, part C for these land uses. Once the Permittee has documented that all of the criteria in these two sections has been met, the reclaimed permit site must achieve 90 percent vegetative cover density for a minimum of two years. Tree and shrub survival must be measured by counting live and healthy trees and shrubs. All trees and shrubs counted must have been in place for a minimum of two years and must have at least one-third of their height in live crown. At the time of counting trees or shrubs to determine if their survival meets the revegetation success standard, 80 percent of the original number of trees and shrubs planted per acre must be alive and must have been in place for three years. There must be a minimum of 400 live trees or shrubs per acre of land under a forested land use, including recreation or wildlife land use areas where woody plants are used, for purposes of achieving revegetation success. The Division will require the permittee to document the time of planting of all trees and shrubs on the permit. The permittee must tag all trees and shrubs planted with permanent markers which indicate the planting date. The permittee is responsible for assuring that the markings are permanent and will remain legible during the period of responsibility. Any tree having tags which are illegible or appear to have been tampered with will not count towards meeting the revegetation success standard for forest lands. Iowa submitted two appendices that are referenced in its guidelines for these land uses. Appendix 5 lists the recommended tree planting species in Iowa. This appendix was developed by using lists of tree planting species obtained from the Iowa Department of Natural Resources and the Iowa State University Forestry Extension. Appendix 8 contains the recommended wildlife and recreation planting species in Iowa. This appendix was also developed from information provided by the Iowa Department of Natural Resources and the Iowa State University Forestry Extension. Iowa submitted a letter dated October 21, 1996, from the Iowa Department of Natural Resources as evidence of consultation with the State agency responsible for the administration of forestry and wildlife programs when developing it guidelines for recreational, wildlife, and forested lands (Administrative Record No. IA–441.5).

The Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3) for fish and wildlife habitat, recreation, shelter belts, or forest products require that permittees determine success of vegetation on the basis of tree and shrub stocking and vegetative ground cover. They also require that:

(i) Minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a programwide or a permit-specific basis.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

We find that Iowa's revegetation success standards for recreational, wildlife, and forested lands at section IV, part E are no less effective than the requirements of the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3), with two exceptions. First, Iowa's guidelines do not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Therefore, we are requiring Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We are also requiring Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs.

4. Sampling Procedures and Techniques

Section V of Iowa's revegetation success guidelines contain sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. With one exception, we find that Iowa's sampling procedures and techniques are statistically valid at a 90 percent or greater statistical confidence level as required by the Federal regulations at 30 CFR 816.116(a) (1) and (2), 817.116(a) (1) and (2), and 823.15(a)(2). Section V, part A.2, which contains the grain sampling technique for test plot harvesting, does not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. Therefore, we are requiring Iowa to revise its revegetation success guidelines at section V, part A.2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

B. Normal Husbandry Practices

Iowa also proposed guidelines relating to normal husbandry practices that may be used without restarting the responsibility period. Section III, part H contains requirements for rill and gully repair; terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing, and interseeding. Rill and gully erosion may be addressed within the permit or partial permit area without restarting the responsibility period only if repairs are completed using normal

husbandry practices. If the repair work requires augmented seeding, fertilization, or irrigation, the period of responsibility will restart. Normal husbandry practices do not include any temporary erosion control structures, such as silt fencing, straw, or hay bale dikes. Part H.1 specifies that the State will consider as normal husbandry practices any terrace repairs and maintenance required due to: (1) Rainfall events that exceed their designed capacities; (2) sediment deposition into a terrace flow line during the first year or two after the initial terrace construction and seeding that exceed the designed sediment storage capacity of the terrace; and (3) differential settling that impacts the flow line of the terrace. Part H.1 includes a listing of the types of terrace repair and maintenance options that the State will consider as normal husbandry practices. In part H.2, the State considers riprap repair and maintenance on ditches and structures due to storm events that exceed the maximum design standard as normal husbandry practices. Part H.2 includes a listing of the types of riprap repair and maintenance practices that will be considered normal husbandry practices. Part H.3 provides that normal husbandry practices can include limited land smoothing and reseeding as long as: (1) the individual areas are no larger than one acre in size and (2) the cumulative acreage is no greater than 10 percent of the entire permit or partial area. At part H.4, Iowa will consider applications of lime and fertilizer and interseeding to be normal husbandry practices when they meet specified conditions. For lime and fertilizer applications, the permittee must submit the original weight tickets for the applications at the times specified in section III, part B.3. For interseeding, the permittee must submit the original seed tickets at the times specified in section III, part B.3. Part H.4(a) and (b) provide, respectively, that lime and fertilizer applications must be made based on soil test recommendations for the appropriate crop or vegetation. Before any lime and fertilizer applications, the permittee must submit to the Division the original copies of the soil test recommendations and a map of the permit areas indicating where each soil sample was taken. If subsequent submittals of lime and fertilizer weight tickets prove that actual applications were in excess of the soil test recommendations, the Division will restart the responsibility period. Interseeding will be considered a normal husbandry practice based on the criteria listed in part H.4(c). This criteria includes: (1) interseeding of a legume on the third year of a grass/legume vegetative cover; (2) interseeding of a single species that failed to germinate due to unfavorable climate conditions on half or more of the permit area; and (3) interseeding of a species due to excessive winter kill.

The Federal regulations at 30 CFR 816.116(c)(4) for surface mining operations and 817.116(c)(4) for underground mining operations allow the regulatory authority to approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, under specified conditions. The regulatory authority must obtain prior approval from OSM in accordance with 30 CFR 732.17 that the practices are normal husbandry practices that can be expected to continue as part of the postmining land use or that discontinuance of the practices after the responsibility period expires will not reduce the probability of permanent revegetation success. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. In the September 7, 1988, preamble for the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4), we discussed the type of documentation that the regulatory authority must submit to support its proposed normal husbandry practices (53 FR 34641). The regulatory authority must submit documentation that demonstrates that the practice is the usual or expected state, form, amount or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resource and maintain a prescribed level of use or productivity of similar unmined lands. We will consider, on a practice-by-practice basis, the documentation supporting each practice proposed by a regulatory authority as a normal husbandry practice. The documentation must include conservation practice guidelines or agronomy guidelines and fact sheets for the management of unmined lands in the applicable State. The guidelines and fact sheets could be those distributed by the NRCS or other organizations with similar expertise in management of a State's natural resources, including agricultural lands.

Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence that Iowa consulted with the NRCS when developing its normal husbandry practice guidelines (Administrative Record No. IA–441.5. Iowa also submitted a letter dated December 16, 1996, from the Iowa State University, Department of Agronomy, as additional evidence of consultation when developing its normal husbandry practices. However, Iowa did not submit actual NRCS conservation practice guidelines or Iowa State University agronomy guidelines or fact sheets to support its proposed normal husbandry practices. Therefore, we find that Iowa has not adequately demonstrated that its proposals for rill and gully repair; terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing, and interseeding of areas disturbed by mining in Iowa are normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land uses of the disturbed areas. We are requiring Iowa to either remove its guidelines for normal husbandry practices at section III, part H or submit documentation that support the proposed normal husbandry practices.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Iowa program (Administrative Record Nos. IA–441.1 and IA–441.9). On October 5, 1999, the Mine Safety and Health Administration sent us a letter stating that it had no comments on the amendment (Administrative Record No. IA–441.10).

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Iowa proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record Nos. IA–441.1 and IA–441.9). The EPA did not respond to our requests.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On October 5, 1998, and September 28, 1999, we requested comments on Iowa's amendment (Administrative Record Nos. IA–441.1 and IA–441.9), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve, with certain exceptions and additional requirements, the amendment as sent to us by Iowa on September 28, 1998, and as revised and sent to us by Iowa on August 3, 1999.

With the requirement that Iowa further revise its revegetation success guidelines, we do not approve, as discussed in: findings No. A.1 and A.2.a, the use of reference areas for determining success of productivity on prime farmland areas; finding No. A.2.b., section IV, part G, concerning the requirements and methods for use of control areas to adjust the County Soil Map Unit Yield Data for climatic conditions; and finding No. B, section III, part H, concerning normal husbandry practices.

With the requirement that Iowa further revise its revegetation success guidelines, we approve, as discussed in finding No. A.3, section IV, part E, concerning revegetation success standards for recreational, wildlife, and forested lands; finding No. A.4, section V, concerning sampling procedures and techniques for ground cover, stocking, and production.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 915, which codify decisions concerning the Iowa program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Iowa to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change to an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to State programs that are not approved by OSM. In the oversight of the Iowa program, we will recognize only the statutes, regulations and other materials approved by the Secretary or by us, together with any consistent implementing policies, directives and other materials. We will require the enforcement by Iowa of only such provisions.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

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

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

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

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 10, 1999.

Richard J. Seibel,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 915 is amended as set forth below:

PART 915—IOWA

1. The authority citation for part 915 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 915.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 915.15 Approval of Iowa regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
September 28, 1998	November 26, 1999	Revegetation Success Guidelines dated April 1999 (partial approval).

3. Section 915.16 is amended by adding paragraphs (a) through (e) to read as follows:

§ 915.16 Required program amendments.

* * * * *

(a) Before Iowa allows the use of reference areas for determining success of productivity on prime farmland as proposed at section III, part F and section IV, part A.2 of its revegetation success guidelines, Iowa must submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with these provisions.

(b) By May 25, 2000, Iowa must either remove the guidelines for normal husbandry practices from section III, part H of its April 1999 revegetation success guidelines or submit for OSM approval documentation that demonstrates each practice is a normal husbandry practice within the region for unmined lands having land uses similar to the approved postmining land uses of areas disturbed by mining in Iowa.

(c) By May 25, 2000, Iowa must either remove section IV, part G, which contains the requirements and methods for control area climatic adjustments to the prime farmland average yields provided in the County Soil Map Unit Yield Data tables, from its April 1999 revegetation success guidelines or submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with this provision.

(d) By May 25, 2000, Iowa must amend its revegetation success guidelines at:

(1) Section IV, part E by either adding planting arrangement provisions for recreational, wildlife, and forested lands and obtaining program-wide concurrence for the provisions from the State agencies responsible for the administration of forestry and wildlife programs or adding a provision that requires permit-specific concurrence for minimum planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs.

(2) Section IV, part E by either obtaining program-wide concurrence for its minimum stocking provisions or adding a provision that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs.

(e) By May 25, 2000, Iowa must add a provision to section V, Part A.2 of its revegetation success guidelines that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

[FR Doc. 99–30677 Filed 11–24–99; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 99–5C]

Notice and Recordkeeping for Non-subscription Digital Transmissions

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim rule amendment.

SUMMARY: The Copyright Office is extending the date by which a non-interactive, non-subscription service currently making digital transmissions of sound recordings must file an initial notice of digital transmission with the Copyright Office from October 15, 1999, to December 1, 1999.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

The Digital Performance Right in Sound Recordings Act of 1995, Public Law 104–39, 109 Stat. 336, created a statutory license that allowed an eligible subscription service to perform publicly a sound recording by means of digital audio transmissions, provided that the service adheres to the terms of the license and complies with the notice and recordkeeping regulations promulgated by the Librarian of Congress. 17 U.S.C. 114(f)(2) (1995). Three years later with the passage of the Digital Millennium Copyright Act of 1998 (''DMCA''), Congress expanded the scope of this license to include nonexempt, non-subscription transmission services and two preexisting satellite digital audio radio services.

Prior to the passage of the DMCA, the Copyright Office published regulations to govern how a subscription service was to provide notice to the copyright owners of the sound recordings and maintain specific records documenting the use of these works. *See* 63 FR 34289 (June 24, 1998). Under these regulations, each service had to file an initial notice of digital transmission with the Licensing Division of the Copyright Office. 37 CFR 201.35. The deadline for filing this notice was structured to allow a service to file its notice either before it commenced operation, or in the case of a service already making transmissions prior to the publication of the rule, within 45 days of the effective date of the regulation.

These filing requirements, however, did not allow a service newly eligible to make use of the license under the DMCA to make a timely filing of its initial notice of digital transmission. Therefore, the Office proposed an amendment to—201.35(f) which extended the date for filing an initial notice to October 15, 1999, in the case of those services operating under the expanded license. 64 FR 42316 (August 4, 1999). The proposed amendment was unopposed, and the Office adopted the change as a final interim regulation on September 20, 1999. 64 FR 50758 (September 20, 1999).

Subsequently, the National Association of Broadcasters (''NAB'') filed a petition with the Copyright Office, seeking an extension of the October 15 deadline for filing the initial notices to December 1, 1999. NAB made this request because it believed that many potentially affected parties were unaware of the need to file an initial notice by the October 15, 1999, date, and consequently, missed the filing deadline. See 64 FR 59140 (November 2, 1999). Since that date, the Copyright Office has received several hundred initial notices from non-subscription services that are currently operating under the section 114 license and expects additional filings to continue. Thus, it appears that many of the potentially affected parties were unaware of the rule change that set a date certain by which these services had to file an initial notice of digital transmission of sound recordings.

In recognition of the apparent breakdown in the process to disseminate the information regarding

the filing requirement to those parties most affected by the interim rule change and the lack of any comments opposing the extension of the filing date, the Office is amending its interim regulation in accordance with NAB's suggestion and adopting the proposed December 1, 1999, date.

A service should be aware that the date-specific filing deadline for non-subscription services is significant only if it has made a digital transmission under the statutory license prior to that filing date. Any preexisting entity, just as any new entity which chooses to make use of the license at a future time, may file its initial notice after these dates, so long as it files its initial notice with the Licensing Division prior to the first transmission of a sound recording.

Regulatory Flexibility Act

Although the Copyright Office, located in the Library of Congress which is part of the legislative branch, is not an ''agency'' subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Register of Copyrights considers the effect of a proposed amendment on small businesses. For that reason, the Register is amending yet again 37 CFR 201.35(f) in order to allow small business entities that are eligible for the statutory license to make a timely filing of its initial notice of digital transmission. The Register sought the amendment at the request of the NAB, an organization that represents the interests of numerous small broadcasters who were heretofore unaware of the filing requirement.

List of Subjects in 37 CFR Part 201

Copyright.

Final Interim Regulation

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702

§ 201.35 [Amended]

2. Section 201.35(f) is amended by removing the date ''October 15'' and inserting in its place ''December 1''.

Dated: November 18, 1999.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 99–30928 Filed 11–24–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 257

[FRL–6481–3]

OMB Approval Numbers Under the Paperwork Reduction Act Relating to the Criteria for Classification of Solid Waste Disposal Facilities and Practices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice displays the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B. This document also announces the effective dates of certain sections in the Code of Federal Regulations which contained information collections requirements and which were originally published in the **Federal Register** on July 1, 1996.

EFFECTIVE DATE: The amendment to 40 CFR 9.1 is effective November 26, 1999. 40 CFR 257.24, 257.25, and 257.27 became effective on September 12, 1996 when the Office of Management and Budget (OMB) approved their information collection requirements.

FOR FURTHER INFORMATION CONTACT: Paul Cassidy of the Industrial and Extractive Waste Branch, Office of Solid Waste at (703)–308–7281.

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements promulgated under the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B which appeared in the **Federal Register** on July 1, 1996 (61 FR 34252); OMB approved the information collection requirements on September 12, 1996 (ICR 1745.02). The affected regulations are codified at 40 CFR Part 257—Subpart B. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This display of the OMB control numbers and their subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320. By this action EPA, is also announcing that these sections, which contain information collection requirements, became effective when approved by OMB on September 12, 1996.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, further notice and comment would be unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3)) to amend this table without further notice and comment.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and Tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate or saftey risks.

Congressional Review Act

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. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of November 26, 1999 for the amendment to 40 CFR 9.1. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 257

Reporting and recordkeeping requirements, Waste disposal.

Dated: November 12, 1999.

Timothy Fields, Jr.,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble 40 CFR part 9 is amended as follows:

PART 9—AMENDED

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1, the table is amended by adding the new entries in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Criteria for Classification of Solid Waste Disposal Facilities and Practices	.....
257.8	2050–0154
257.21(b)	2050–0154
257.21(h)	2050–0154
257.23	2050–0154
* * * * *	
257.30	2050–0154
* * * * *	

[FR Doc. 99–30782 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0190a; FRL–6477–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District, Santa Barbara County Air Pollution Control District, Ventura County Air Pollution Control District, and Yolo-Solano County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the following districts: Sacramento Metropolitan Air Quality Management District (SMAQMD); Santa Barbara County Air Pollution Control District (SBCAPCD); Ventura County Air Pollution Control District (VCAPCD); and Yolo-Solano Air Quality Management District (YSAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules 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 revised rules control VOC emissions from the storage and transfer of gasoline, loading of organic liquids, and fugitive hydrocarbons. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on January 25, 2000 without further notice, unless EPA receives adverse comments by December 27, 1999. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each 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, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District, 777 12th Street 3rd Floor, Sacramento, CA 95814–1908.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93301.

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

Yolo-Solano Air Quality Management District, 1947 Galileo Ct., Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP and submitted by the California Air Resources Board include:

District	Rule# and name	Submittal date
SMAQMD	447 Organic Liquid Loading	06/23/98
SBCAPCD	316 Storage & Transfer of Gasoline	03/10/98
VCAPCD	70 Storage & Transfer of Gasoline	08/01/97
YSAQMD	2.23 Fugitive Hydrocarbon	11/30/94

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Sacramento Metropolitan Area, Santa Barbara County Area, Ventura County Area, and Yolo-Solano County Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.[1] EPA's SIP–Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Sacramento Metro Area, Ventura County Area, and Yolo County and part of Solano County Area are designated as severe. The Santa Barbara-Santa Maria Lompoc Area is classified as serious [2]; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on November 30, 1994, August 8, 1997, March 10, 1998, and June 23, 1998, including the rules being acted on in this document. This document addresses EPA's direct-final action for SMAQMD Rule 447, Organic Liquid Loading, adopted on April 2, 1998; SBCAPCD Rule 316, Storage & Transfer of Gasoline, adopted on April 17, 1997; VCAPCD Rule 70, Storage & Transfer of Gasoline, adopted on April 15, 1997; and YSAQMD Rule 2.23, Fugitive Hydrocarbon, adopted on March 23, 1994. These submitted rules were found to be complete on August 25, 1998, May 21, 1998, September 30, 1995, and January 30, 1995, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V [3] and is being finalized for approval into the SIP.

SMAQMD Rule 447 controls VOC emissions from the loading of organic liquids, SBCAPCD Rule 316 and VCAPCD Rule 70 control VOC emissions from the storage and transfer of gasoline, and YSAQMD Rule 2.23 controls fugitive emissions of VOCs. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SMAQMD, SBCAPCD, VCAPCD, and YSAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''fix-up'' their RACT rules. See section 182(a)(2)(A). The CTGs applicable to these rules are entitled: Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, (EPA–450/2–77–026); Control of Volatile Organic Emissions from Bulk Gasoline Plants, (EPA–450/2–77–035); Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, (EPA–450/2–78–051); and Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment, (EPA–450/3–83–006). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

The changes to SMAQMD Rule 447, Organic Liquid Loading, are administrative. Rule 447 was amended to add definitions, reference new ARB test methods, and to clarify that a CARB-certified vapor recovery system is only required for loading of gasoline since there is no certified vapor recovery system for organic liquids other than gasoline. The change to SBCAPCD Rule 316, Storage and Transfer of Gasoline, is administrative. Rule 316 was revised to update references to District Regulations II and VIII for consistency with the revised Regulations.

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** document'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Sacramento Metro Area, Ventura County Area, Yolo County and part of Solano County Area, and Santa Barbara-Santa Maria Lompoc Area have retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

The amendments to VCAPCD Rule 70, Storage and Transfer of Gasoline, were not required by Ventura County's Air Quality Attainment Plan. The rule changes are intended to improve aspects of Rule 70 related to enforceability, rule clarity, consistency with State requirements for gasoline storage and transfer, and the streamlining and practicality of testing requirements. A detailed description of rule changes can be found in the Technical Support Document for this rule dated September 20, 1999.

YSAQMD Rule 2.23, Fugitive Hydrocarbons, is a new rule. The submitted rule includes the following provisions:

- Definitions for rule clarity.
- Rule standards for inspection frequency, process and operation requirements, and a repair schedule.
- Monitoring and recordkeeping requirements to determine compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SMAQMD Rule 447, Organic Liquid Loading; SBCAPCD Rule 316, Storage & Transfer of Gasoline; VCAPCD Rule 70, Storage & Transfer of Gasoline; and YSAQMD Rule 2.23, Fugitive Hydrocarbon, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This document will be effective January 25, 2000 without further notice unless the Agency receives adverse comments by December 27, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on January 25, 2000 and no further action will be taken on the proposed rule.

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 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. Policies that have federalism implications is defined in the Executive Order to include regulations that 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. Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule 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, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order 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 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. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 25, 2000. 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 compounds.

Dated: November 5, 1999.

Laura Yoshii,

Deputy 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 paragraphs (c)(207)(i)(C)(*8*), (248)(i)(E), (254)(C)(*5*) and (256)(i)(G) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(207) * * *

(i) * * *

(C) * * *

(*8*) Rule 2.23 adopted on March 23, 1994.

* * * * *

(248) * * *

(i) * * *

(E) Ventura County Air Pollution Control District.

(*1*) Rule 70 revised on May 13, 1997.

* * * * *

(254) * * *

(C) * * *

(*5*) Rule 316 revised on April 17, 1997.

* * * * *

(256) * * *

(i) * * *

(G) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 447 amended on April 2, 1998.

* * * * *

[FR Doc. 99–30609 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 420

[HCFA–4000–FC]

RIN 0938–AJ30

Medicare Program; Suggestion Program on Methods to Improve Medicare Efficiency

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period establishes a program to encourage individuals to submit suggestions that could improve the efficiency of the Medicare program. The rule implements section 203(c) of the Health Insurance Portability and Accountability Act of 1996. The intent of this rule is to encourage suggestions and to award, if we deem appropriate, monetary payments to individuals for suggestions that improve efficiency and produce monetary savings to the Medicare program.

DATES: *Effective date:* This final rule is effective December 27, 1999. Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern time on January 25, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–4000–FC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: hcfa4000fc@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–4000–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Sam Della Vecchia, (410) 786–4481.

SUPPLEMENTARY INFORMATION:

I. Background

A. Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings

It has long been our policy to encourage the use of incentive awards to recognize and reward individuals who directly contribute to the economy, efficiency, and effectiveness of government programs. For example, recognition of Federal employee suggestions and rewards for individuals whose adopted ideas benefit the government motivate Federal employees to increase productivity and creativity.

With the August 1996 enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPPA) (Public Law 104–191), the Congress recognized that the public at large, especially the beneficiaries, physicians, and suppliers actively involved in the delivery and utilization of Medicare health care services, may be in a position to suggest ideas that might contribute directly to improving Medicare program efficiency. By enacting section 203(c) of HIPPA, the Congress has required us to establish a program that encourages individuals to submit suggestions on methods that might improve the efficiency of the Medicare program. This legislation gives us the discretion to make a payment to a suggester, in an amount that we consider appropriate, as a reward for, and in recognition of, a suggestion we adopt that improves efficiency and results in monetary savings to the Medicare program.

B. Provisions of This Final Rule

As required by section 203(c), this final rule establishes a program that will provide a vehicle to submit suggestions on methods that could improve the efficiency of the Medicare program. Therefore, we are adding a new § 420.410 to subpart E of part 420, ''Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings,'' that sets forth procedures and requirements for the public to submit suggestions, for us to evaluate them and, if appropriate, to reward the suggester whose suggestion we adopt.

In § 420.410(a), we define a ''suggestion program'' to mean the specific procedures and requirements established by us for receiving suggestions, evaluating the suggestions, and, if appropriate, paying a reward to the suggester for an adopted suggestion that improves efficiency and produces monetary savings to the Medicare program. We define ''suggester'' as an individual, a group of individuals, or a legal entity, such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

We specify that ''suggestion'' used in this context means an original idea submitted in writing. We specify that ''payment'' means a monetary award given to the suggester in recognition of, and as a reward for, a suggestion we adopt that improves the efficiency of the Medicare program and results in monetary savings. We define ''savings'' to mean the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

In § 420.410(b), we specify that, as a general rule, we may make a payment to the suggester for suggestions we have adopted that increase efficiency and result in monetary savings to the Medicare program. However, in order to ensure that the suggestion program does not duplicate other Government incentive programs, we specify that we may make a monetary award only in instances in which an award is not otherwise provided by law. That is, if the suggestion furnished by the suggester qualifies for an award under another Government program, the suggester is not entitled to an award under this program.

This paragraph also specifies that we have the sole discretion to determine whether it is appropriate and desirable for us to adopt a particular suggestion, to make monetary payment for any adopted suggestion, and to select the method by which we will calculate the payment award.

We believe that the Congress intended that any individual, group of individuals or legal entity would be eligible to submit suggestions that improve Medicare program efficiency. For the reasons discussed below, we have chosen to exclude suggesters who have one of the relationships with the Federal Government described in § 420.410(d). Therefore, in § 420.410(c), we provide that, except as specified in § 420.410(d), any individual, group of individuals or legal entity is eligible to submit suggestions under this suggestion program and to be considered for a reward if the suggester submits the information in the prescribed manner discussed in § 420.410(e).

In § 420.410(d), we list who is ineligible to receive a reward under this suggestion program. Specifically, we provide that Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of any of these groups of individuals, are not eligible for a reward under this suggestion program. The purpose of the exclusion is to prevent Federal employees, contractors, or grantees from personally profiting from information gained while doing public business. Suggestions made by Federal employees are covered under the Office

of Personnel Management policies and requirements for administering incentive award programs, which are set forth at 5 CFR Part 451. If, after the suggester receives an award, we later find that the suggester was ineligible, the recipient must refund the reward money.

To discourage submission of frivolous suggestions, we indicate in § 420.410(e) that suggesters must mail all suggestions in writing to us. This allows us to make a thorough and fair evaluation of all the relevant facts, to have an adequate record of the suggester's idea, to document the date the idea was sent to us, and to identify any redundancy or overlap with previously submitted suggestions. We will not accept oral suggestions because we could misconstrue them or have difficulty evaluating them. In addition, while we do not plan to develop a standardized format for submitting suggestions, we specify that written suggestions must include the following pertinent information:

(1) A description of an existing problem or need;

(2) A suggested method for solving the problem or filling the need; and

(3) If known, an estimate of the savings potential that could result from implementing the suggestion.

This information will enable us to evaluate suggestions expeditiously, fairly, and uniformly. Suggestions that do not contain the above information will not be considered under this program. All suggestions must be mailed to Health Care Financing Administration, Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21224–1850.

In § 420.410(e), we also specify that any suggester wishing to receive an award for submitting a suggestion must provide us with a name, address, telephone number, and any other identifying information we request so that we can contact the suggester if we need additional information and, in appropriate cases, so that we can mail the reward payment. We also require all of the names constituting a group of suggesters, or the name of a legal entity and its representative. For example, when we deem it appropriate to pay a reward, we must request, for income tax purposes, the suggester's social security number or tax identification number.

We specify in § 420.410(f) that we evaluate all suggestions, as presented by the suggester, on the basis of originality, accuracy, feasibility, nature and complexity, estimated potential monetary savings to the Medicare program, the extent to which Medicare program efficiency would be improved if we were to adopt the suggestion, and any other factors that appear to us to be relevant to a particular situation. If, in the final evaluation, we determine that the suggestion is likely to improve efficiency and result in monetary savings to the Medicare program, we will decide whether, all factors considered, it would be appropriate for us to adopt the suggestion. One of the major factors may be budget constraints at the time we complete our review of a suggestion. This constraint could preclude us from adopting the suggestion if it requires a significant outlay of funds to implement, even though it may be demonstrated that the Medicare program would realize savings in the long run. Also, we may choose to adopt a suggestion in part. We may adopt and reward a suggestion in part if the program would realize verifiable monetary savings from a partial adoption.

While it is our intention to evaluate suggestions as quickly as possible, some suggestions may require more processing time than others. The complexity of the suggestion, consideration of the feasibility of various implementation strategies, and our workload or manpower constraints make it difficult to specify how long it will take us to evaluate a suggestion. Therefore, we specify that the evaluation process will be concluded in a reasonable amount of time, not to exceed 2 years from the date we receive a suggestion, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and our current workload.

We indicate in § 420.410(g) that, should we choose to adopt a suggestion in its entirety, or a part of a suggestion, and issue monetary payment as a reward, the payment amount will be determined based either on the actual first-year net savings, or the average annual net savings expected to be realized over a period of not more than 3 years. In either case, (as we discuss later in § 420.410(h)(2)), we will not make the reward payment until the suggestion has been in operation for 1 year. We use the average annual net savings to calculate a reward payment if we expect that an improvement is likely to yield monetary savings for more than 1 year and implementation involves substantial costs, or we believe that monetary savings will be negligible in the first year but we expect them to substantially increase in subsequent years. We have the sole discretion in selecting the methodology for calculating net savings. In accordance with § 420.410(g)(2), the reward payment amount will be calculated as follows:

- Net savings from $1,000 to $10,000—10 percent of the savings, with a minimum award amount of $100 (that is, we will only pay awards that amount to $100 or more).
- Net savings of $10,001 to $100,000—$1,000 for the first $10,000 of savings, plus 3 percent of the savings over $10,000.
- Net savings of more than $100,000, $3,700 for the first $100,000 of savings, plus 0.5 percent of the savings over $100,000, not to exceed $25,000.

Because we have successfully used this same payment calculation methodology to determine award amounts for Federal employees whose suggestions have resulted in monetary savings to the Medicare program, we have chosen to adopt this same process for this program.

In accordance with section 203(c) of HIPPA and as noted above in our discussion of § 420.410(b), we specify in § 420.410(h)(1) that we determine whether it would be appropriate and desirable for us to adopt or to reward a particular suggestion. If we receive the same or an overlapping suggestion from two or more unrelated parties, we will consider a reward only for the suggestion we received first, if the suggestion or overlapping part of the suggestion are identical, and we have adopted that part. If the suggestions are not identical, we will consider rewarding the suggestion we received first, if it is feasible and we have been able to adopt and implement the suggestion. If the first suggestion cannot be implemented, we may consider rewarding the suggestion we received next, even if it is similar, provided we can adopt and implement the suggestion.

We specify in § 420.410(h)(2) that payment will be mailed only after the suggestion has been in operation for 1 year.

We specify in § 420.410(i) that if a group of individuals submits a suggestion that we deem appropriate to reward, individuals in the group will receive an equal share of the award. If the suggestion is submitted by an organization, such as a corporation, partnership, or professional association, we will make a single reward payment to that organization.

We specify in § 420.410(j) that it is the suggester's responsibility to notify us of any change in the information required in § 420.410(e) above. If our mailed award is returned to us as ''undeliverable'' or ''address unknown,'' the suggester has up to 1 year from the date of our notification letter to claim

the award. We have set this 1-year limitation to minimize the administrative burden associated with this program. We believe 1 year is a reasonable period of time to claim a monetary award that has been returned to us. In addition, the 1-year limitation protects the Government from the administrative and fiscal burden that would be associated with maintaining claims for a longer or indefinite period. Awards not claimed within 1 year from the date they were first mailed to the suggester will not be awarded. Also, no interest will be paid on awards for any reason.

We specify in § 420.410(k), that, if the suggester has become incapacitated or has died, an executor, administrator, or other legal representative may claim the award payment on behalf of the suggester or the suggester's estate. In order to protect participants from being defrauded by individuals falsely claiming to be their legal representatives, we state that the claimant must submit certified copies of letters testamentary, letters of administration, or other similar evidence to show his or her authority to claim the award payment. We also specify that the payment must be claimed within 1 year from the date on which we first mailed the award.

Finally, in § 420.410(l), we indicate that all records related to the administration of this suggestion program are retained in accordance with the regulations of the National Archives and Records Administration (36 CFR Part 1228). We state that no information submitted under this suggestion program will be disclosed, except as required by law.

II. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

III. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals are not considered to be small entities.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b), we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may mandate an annual expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million or more. We believe that this proposed rule does not mandate such expenditures.

B. Summary of the Final Rule

The final rule establishes a suggestion program as a means of (1) encouraging the submission of suggestions for improving the efficiency of the Medicare program and (2) rewarding those who make suggestions when we deem that it is appropriate and when a reward is not otherwise provided by law or prohibited by this program. The rule describes the program, lists information requirements and eligibility criteria, establishes a lower and an upper limit for payments, and outlines the process and time limitations we must follow in issuing a reward.

C. Discussion of Impact

This rule is expected to affect beneficiaries and their personal representatives and advocates, providers, physicians, other suppliers, and managed care plans. Taxpayers, small rural hospitals, and the Medicare Trust Fund could also be impacted by this rule.

Beneficiaries as a group are expected to be impacted by this regulation in several ways. First, beneficiaries are often the first to recognize and question provider and program practices. This knowledge may stimulate the formation of ideas for improvement in our program operations. This regulation encourages these individuals to share program improvement suggestions with us by (1) providing a clearly defined process for submitting information to the appropriate source and, (2) in appropriate cases, offering a monetary incentive to support the effort.

Advocates for beneficiaries and other private sector organizations have often shared ideas with agency components for improving the Medicare program. Some of these have been related to specific activities like proposed rulemaking and the development of program guidelines, and special committee recommendations. This regulation expands the opportunity for these individuals or their organizations to apply their creative energies to any and all aspects of the Medicare program for potential improvement. It is also likely that advocacy groups and other beneficiary representatives will view this regulation as supporting their efforts to identify areas for program improvement and bring their suggestions to our attention.

We expect a similar potential impact on business entities, providers, other suppliers, managed care organizations, small rural hospitals, and others. Overall we expect that all of these groups could benefit qualitatively from this rule. Many of these individuals and entities and the associations representing them have contributed ideas to us over the years in much the same way as the beneficiary advocacy groups. We believe that they are a valuable source of ideas about how to make the Medicare program more efficient, and the suggestion program provides them with a specific, ongoing mechanism for submitting these ideas to us. In addition, these groups could receive a monetary award for their suggestions.

Because this is a new program, we cannot predict at this time what effect any particular suggestion might have on a specific individual or entity; we have no way of knowing what kinds of suggestions we will receive or whether we will achieve any results if we adopt them. Also, this rule does not address the substance of any particular suggestions we may receive in the future; it simply describes the process by which individuals or entities can submit their ideas. Therefore, we cannot in any way predict the aggregate economic impact of any suggestions in which this rulemaking may result on any particular individual or entity, including small business entities, nor

can we estimate the savings to the Medicare Trust Fund, or the taxpayer. However, we anticipate that establishing the program described in this rulemaking will itself have a minimal economic impact.

D. Conclusion

We conclude that this final rule could ultimately lead to program improvements and money saved, and could help extend the solvency of the Medicare Trust Fund. Because the Medicare program is continually becoming more complex, we recognize the value of objective critiques by those who are most affected by the myriad of Medicare statutes, provisions, and guidelines.

Based on the above analysis we have determined and certify that this final rule would not have a significant economic impact on a substantial number of small entities. We also have determined and certify that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals. We are, however, inviting comments on whether this rule would have a significant impact on any of the groups listed in this section.

IV. Federalism

We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the States rights, roles, and responsibilities.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirement discussed below.

Section 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings

Section 420.410 establishes a program to collect suggestions for improving Medicare program efficiency and to reward some suggesters for monetary savings. The ''respondents'' for the collection of information described in these regulations will be self-selected individuals and entities that choose to submit suggestions.

Section 420.410(e) states that in order to be considered, the suggestion must be in writing, mailed to us and must include the following information:

(1) A description of an existing problem or need;

(2) A suggested method for solving the problem or filling the need; and

(3) If known, an estimate of the savings potential that could result from implementing the suggestion. Any suggester interested in receiving a reward must provide us with a name, address, telephone number, and any other identifying information we may need to contact the suggester, if we require additional information and, where applicable, to mail the reward.

The burden associated with this requirement is the time and effort for the suggester to submit to us the information described above. It is estimated that this requirement will take each suggester 20 minutes. We anticipate 400 suggestions for a total of 134 burden hours.

Section 420.410(j) states that it is the suggester's responsibility to notify HCFA of any change of address or other relevant information.

We believe the above requirement is not subject to the PRA in accordance with 5 CFR 1320.3(c)(4) since this requirement does not collect information from ten or more persons on an annual basis. We have submitted a copy of this final rule with comment to OMB for its review of the information collection requirements described above. These requirements are not effective until they have been approved by OMB.

If you comment on any of these information collection and record keeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Louis Blank, HCFA–4000–FC, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Eydt, HCFA Desk Officer.

VI. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking can be waived, however, if an agency finds good cause that notice-and-comment procedures are contrary to the public interest, and it incorporates a statement of the finding and its reasons in the rule issued.

Publishing this final rule expeditiously to supplement activities that identify and reduce the drain on the Medicare Trust Fund is in the public interest. Specifically, we anticipate that the implementation of this rule will encourage suggestions that will improve program efficiency and result in savings to the Medicare program.

We find good cause to waive notice-and-comment procedures for this final rule because it is in the public interest to establish this suggestion program as soon as possible to afford the general public the opportunity to submit their suggestions for program improvement. To employ notice-and-comment procedures would only delay potential program savings. We are providing a 60-day period for public comment.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 420

Fraud, Health facilities, Health professions, Incentive programs, Medicare.

For the reasons set forth in the preamble, 42 CFR part 420 is amended as set forth below:

PART 420—PROGRAM INTEGRITY: MEDICARE

1. The authority citation for part 420 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. The heading of subpart E is revised to read as follows:

Subpart E—Rewards for Information Relating to Medicare Fraud and Abuse, and Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings

3. Section 420.400 is revised to read as follows:

§ 420.400 Basis and scope.

This subpart implements sections 203(b) and (c) of Public Law 104–191, which require the establishment of programs to encourage individuals to report suspected cases of fraud and abuse and submit suggestions on methods to improve the efficiency of the Medicare program. Sections 203(b) and (c) of Public Law 104–191 also provide the authority for HCFA to reward individuals for reporting fraud and abuse and for submitting suggestions that could improve the efficiency of the Medicare program. This subpart sets forth procedures for rewarding individuals.

4. New § 420.410 is added to read as follows:

§ 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings.

(a) *Definitions.* As used in this section, the following definitions apply:

Payment means a monetary award given to a suggester in recognition of, and as a reward for, a suggestion adopted by HCFA that improves the efficiency of, and results in monetary savings to, the Medicare program.

Savings means the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

Suggester means an individual, a group of individuals, or a legal entity such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

Suggestion means an original idea submitted in writing.

Suggestion program means the specific procedures and requirements established by HCFA for receiving suggestions from the suggester on methods to improve the efficiency of the Medicare program, evaluating the suggestions and, if appropriate, paying a reward to the suggester for adopted suggestions that result in improved efficiency and produce monetary savings to the Medicare program.

(b) *General rule.* HCFA may make payment for adopted suggestions that increase the efficiency of the Medicare program and result in monetary savings. HCFA only makes payment for suggestions in instances in which a reward is not otherwise provided by law. The determination to adopt a suggestion, to reward the suggester, and the method of calculating a reward are at the sole discretion of HCFA.

(c) *Eligibility.* Except as specified in paragraph (d) of this section, any individual, group of individuals or legal entity, such as a corporation, partnership or professional association, is eligible to submit a suggestion and be considered for a reward under this suggestion program if the suggestion is submitted to HCFA in the manner set forth in paragraph (e) of this section.

(d) *Exclusions.* Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of these individuals, are excluded from receiving payment under the suggestion program. If, after the suggester receives a reward payment, HCFA determines that the suggester was ineligible to receive the reward, HCFA is not liable for the reward payment and the suggester must refund all monies received.

(e) *Requirements for submitting suggestions*—(1) To be considered, the suggestion must be in writing, mailed to HCFA, and must include the following information:

(i) A description of an existing problem or need;

(ii) A suggested method for solving the problem or filling the need; and

(iii) If known, an estimate of the savings potential that could result from implementing the suggestion.

(2) Suggestions must be mailed to: Health Care Financing Administration Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21244–1850.

(3) Any suggesters interested in receiving a reward must provide HCFA with the following information: An individual suggester must provide his or her name, a group of suggesters must provide the names of all the group members, and a legal entity must provide its name and the name of its representative. All suggesters must provide an address, telephone number, and any other identifying information that HCFA needs to contact the suggester for additional information and, where applicable, to mail the reward.

(f) *Evaluation process*—(1) *Relevant factors.* HCFA evaluates all suggestions on the basis of the following factors:

(i) Originality of suggestion.

(ii) An estimate of potential monetary savings to the Medicare program.

(iii) The extent to which Medicare program efficiency would be improved if HCFA adopts the suggestion.

(iv) Accuracy of the information reflected in the suggestion.

(v) Feasibility of implementation.

(vi) Nature and complexity of the suggestion.

(vii) Any other factors that appear to be relevant.

(2) *Evaluation time limit.* HCFA concludes the evaluation process in a reasonable amount of time, not to exceed 2 years from the receipt date, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and HCFA's current workload.

(g) *Basis for reward payment*—(1) *General rule.* If HCFA determines that it is appropriate to make a reward payment for a suggestion adopted in whole or in part, that results in improved efficiency and monetary savings to the Medicare program, the payment is based on—

(i) The actual first-year net savings to the Medicare program, or

(ii) The average annual net savings to the Medicare program expected to be realized over a period of not more than 3 years if—

(A) An improvement is expected to yield monetary savings for more than 1 year and implementation involves substantial costs; or

(B) Monetary savings are negligible in the first year but are expected to substantially increase in subsequent years.

(2) *Reward payment amount.* HCFA determines the amount of a reward payment using the following formula:

(i) Net savings from $1,000 to $10,000—10 percent of the savings, with a minimum award amount of $100;

(ii) Net savings of $10,001 to $100,000—$1,000 for the first $10,000 of savings, plus 3 percent of the net savings over $10,000;

(iii) Net savings of more than $100,000—$3,700 for the first $100,000 of savings, plus 0.5 percent of savings over $100,000, with a maximum award amount of $25,000.

(h) *Adoption of suggestion and issuance of reward payment*—(1) *Adoption.* Upon completing its evaluation, HCFA decides whether to adopt a suggestion. If HCFA receives the same or an overlapping suggestion from two or more unrelated parties, HCFA will consider a reward only for the suggestion HCFA received first, if the suggestion or overlapping part of the suggestion are identical, and HCFA has adopted that part. If the suggestions are

not identical, HCFA will consider rewarding the suggestion received first, if it is feasible and HCFA is able to adopt and implement the suggestion. If the first suggestion cannot be implemented, HCFA may consider rewarding the suggestion received next, even if it is similar, provided HCFA can adopt and implement the suggestion.

(2) *Issuance of reward payment.* After the reward payment amount is determined, as described in paragraph (g) of this section, HCFA mails payment to the suggester (or to the legal representatives referenced in paragraph (k) of this section) only after the suggestion has been in operation for 1 year.

(i) *Group suggestions.* When HCFA deems that a reward payment is appropriate for a suggestion submitted by a group of individuals, HCFA pays an equal share of the reward to each of the individuals identified in the group. If an organization such as a corporation, partnership, or professional association submits a suggestion, HCFA makes a single reward payment to that organization.

(j) *Change in name or address.* It is the suggester's responsibility to notify HCFA of any change of address or other relevant information. If the suggester fails to update HCFA on any change in this information, and the reward payment mailed to the suggester is returned to HCFA, the suggester must claim the reward payment by contacting HCFA within 1 year from the date HCFA first mailed the reward payment to the suggester. HCFA does not pay interest on rewards that, for any reason, are delayed or are not immediately claimed.

(k) *Incapacitated or deceased suggester.* If the suggester is incapacitated or has died, an executor, administrator, or other legal representative may claim the reward on behalf of the suggester or the suggester's estate. The claimant must submit certified copies of the letters testamentary, letters of administration, or other similar evidence to HCFA showing his or her authority to claim the reward. The claim must be filed within 1 year from the date on which HCFA first attempted to pay the reward to the individual who submitted the suggestion.

(l) *Maintenance of records*—(1) HCFA retains records related to the administration of the suggestion program in accordance with 36 CFR part 1228 (the regulations for the National Archives and Records Administration).

(2) HCFA does not disclose information submitted under the suggestion program, except as required by law.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 30, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: May 25, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–30678 Filed 11–24–99; 8:45 am]

BILLING CODE 4120–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2505

RIN 3045–AA21

Rules Implementing the Government in the Sunshine Act

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: These rules implement provisions of the Government in the Sunshine Act (Sunshine Act), which applies to meetings of the Board of Directors of the Corporation for National and Community Service (the Corporation).

DATES: The final rules are effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Trinity, Associate General Counsel, Corporation for National and Community Service, (202) 606–5000, ext. 256. T.D.D. (202) 565–2799. This rule may be requested in an alternative format for persons with visual impairments.

SUPPLEMENTARY INFORMATION: On May 11, 1999 (64 FR 25260), we published a proposed rule to implement provisions of the Sunshine Act, soliciting comments from the public for 60 days, ending July 12, 1999. We did not receive any comments. The information we provided in the proposed rule document still provides the basis for this final rule. Therefore, based on the rationale explained in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule with no changes.

Executive Order 12866

The Corporation has determined that this regulatory action is not a ''significant'' rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) an annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Corporation has determined that this regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Other Impact Analyses

Because this regulatory action does not authorize any information collection activity it is not subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

This regulatory action does not establish requirements that will adversely affect the Year 2000 readiness of organizations supported under the national service laws.

List of Subjects in 45 CFR Part 2505

Sunshine Act.

Accordingly, the Corporation for National and Community Service amends 45 CFR chapter XXV by adding part 2505 to read as follows:

PART 2505—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

2505.1 Applicability.
2505.2 Definitions.
2505.3 To what extent are meetings of the Board open to the public?
2505.4 On what grounds may the Board close a meeting or withhold information?
2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?
2505.6 What are the procedures for making a public announcement of a meeting?
2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

Authority: 5 U.S.C. 552b; 42 U.S.C. 12651c(c).

§ 2505.1 Applicability.

(a) This part implements the provisions of section 3(a) of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings of the Corporation's Board of Directors, or to any subdivision of the Board that is authorized to act on its behalf. The Board of Directors may waive the provisions of this part to the extent authorized by law.

(b) Nothing in this part expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552), except that the exemptions set forth in § 2505.4 shall govern in the case of any request made pursuant to the Freedom of Information Act to copy or inspect the transcript, recording, or minutes described in § 2505.5.

(c) Nothing is this part authorizes the Corporation to withhold from any individual any record, including transcripts, recordings, or minutes required by this part, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a).

§ 2505.2 Definitions.

As used in this part:

(a) *Board* means the Board of Directors established pursuant to 42 U.S.C. 12651a, or any subdivision of the Board that is authorized to act on its behalf.

(b) *Chairperson* means the Member elected by the Board to serve as Chairperson.

(c) *General Counsel* means the Corporation's principal legal officer or other attorney acting at the designation of the Corporation's principal legal officer.

(d) *Corporation* means the Corporation for National and Community Service established pursuant to 42 U.S.C. 12651.

(e) *Meeting* means the deliberations of at least a quorum of the Corporation's Board of Directors where such deliberations determine or result in the joint conduct or disposition of official Corporation business. A meeting may be conducted under this part through telephone or similar communications equipment by means of which all participants may communicate with each other. The term meeting includes a portion thereof. The term meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the members individually by telephone.

(2) Action by a quorum of the Board to—

(i) Open or to close a meeting or to release or to withhold information pursuant to § 2505.5;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice as permitted by § 2505.6(b); or

(iv) Change the subject-matter or the determinations to open or to close a publicly announced meeting under § 2505.7(b).

(3) A gathering for the purpose of receiving briefings from the Corporation's staff or expert consultants, provided that Members of the Board do not engage in deliberations at such sessions that determine or result in the joint conduct or disposition of official Corporation business on such matters.

(4) A gathering for the purpose of engaging in preliminary discussions or exchanges of views that do not effectively predetermine official Corporation action on a particular matter.

(f) *Member* means a current member of the Corporation's Board of Directors.

(g) *Presiding Officer* means the Chairperson or, in the absence of the Chairperson, the Vice Chairperson of the Board of Directors or other member authorized to act in this capacity by the Board.

(h) *Quorum* means the number of Members authorized to conduct Corporation business pursuant to the Board's bylaws.

§ 2505.3 To what extent are meetings of the Board open to the public?

The Board shall conduct meetings, as defined in § 2505.2, in accordance with this part. Except as provided in § 2505.4, the Board's meetings shall be open to the public. The public is invited to attend all meetings of the Board that are open to the public but may not participate in the Board's deliberations at such meetings or record any meeting by means of electronic, photographic, or other device.

§ 2505.4 On what grounds may the Board close a meeting or withhold information?

The Board may close a meeting or withhold information that otherwise would be required to be disclosed under §§ 2505.5, 2505.6 and 2505.7 if it properly determines that an open meeting or disclosure is likely to—

(a) Disclose matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy; and

(2) In fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Corporation;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute—

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would—

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential

information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institution;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Corporation, except that this provision shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action; or

(j) Specifically concerning the Corporation's issuance of a subpoena or the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?

(a) The Board may vote to close a meeting or withhold information pertaining to a meeting. Such action may be taken only when a majority of the entire membership of the Board votes to take such action. A separate vote shall be taken with respect to each action under § 2505.4. The Board may act by taking a single vote with respect to a series of meetings which are proposed to be closed to the public, or with respect to any information concerning a series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. Each Member's vote under this paragraph shall be recorded and no proxies shall be allowed.

(b) If your interests may be directly affected if a meeting is open you may request that the Board close the meeting on one of the grounds referred to in § 2505.4(e), (f), or (g). You should submit your request to the Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, D.C. 20525. The Board shall, upon the request of any one of its members, determine by recorded vote whether to grant your request.

(c) Within one working day of any vote taken pursuant to this section, the Board shall make publicly available a written copy of such vote reflecting the vote of each Member on the question. If a meeting is to be closed to the public, the Board shall, within one working day, make available a full written explanation of its action closing the meeting and a list of all persons expected to attend the meeting and their affiliation.

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemption relied upon. A copy of the certification shall be available for public inspection.

(e) For each closed meeting, the Board shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f)(1) For each closed meeting, with the exception of a meeting closed pursuant to § 2505.4(h) or (j), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting.

(2) For meetings that are closed pursuant to § 2505.4(h) or (j), the Board may maintain a set of minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any vote. All documents considered in connection with any action shall be identified in such minutes.

(3) The Corporation shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be properly withheld. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Corporation shall maintain the transcript, recording, or minutes for each closed meeting for at least two years or at least one year after the conclusion of any Corporation business acted upon at the meeting, whichever occurs later.

§ 2505.6 What are the procedures for making a public announcement of a meeting?

(a) For each meeting, the Board shall make a public announcement, at least one week before the meeting, of—

(1) The meeting's time and place;

(2) The matters to be considered;

(3) Whether the meeting is to be open or closed; and

(4) The name and business telephone number of the official designated by the Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if—

(1) The Board determines by recorded vote that Board business requires that the meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time and posted on the Corporation's home page.

(c) Immediately following a public announcement required by paragraph (a) of this section, the Corporation will submit for publication in the **Federal Register** a notice of the time, place, and subject matter of the meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

§ 2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

(a) After there has been a public announcement of a meeting, the time or place of the meeting may be changed only if the Board publicly announces the change at the earliest practicable time. Such a change need not be determined by recorded vote.

(b) After there has been a public announcement of a meeting, the subject-matter of the meeting, or the determination of the Board to open or to close a meeting may be changed only when—

(1) The Board determines, by recorded vote, that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member at the earliest practicable time.

(c) The deletion of any subject-matter previously announced for a meeting is not a change requiring the approval of

the Board under paragraph (b) of this section.

Dated: November 15, 1999.

Thomasenia P. Duncan,

General Counsel.

[FR Doc. 99–30539 Filed 11–24–99; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[ET Docket No. 98–95, FCC 99–305]

Dedicated Short Range Communications of Intelligent Transportation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates 75 megahertz of spectrum at 5.850–5.925 GHz to the mobile service for use by Dedicated Short Range Communications (''DSRC'') systems operating in the Intelligent Transportation System (''ITS'') radio service. ITS services are expected to improve traveler safety, decrease traffic congestion, facilitate the reduction of air pollution, and help to conserve vital fossil fuels. DSRC systems are being designed that require a short range wireless link to transfer information between vehicles and roadside systems. We are also adopting basic technical rules establishing power limits, and unwanted emission limits for DSRC operations. These decisions will further the goals of the United States (''U.S.'') Congress and the Department of Transportation (''DOT'') to improve the efficiency of the Nation's transportation infrastructure and will facilitate the growth and development of the ITS industry.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology, (202) 418–2451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket 98–95, FCC 99–305, adopted October 21,1999, and released October 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room Cy-A257, 445 12th Street, S.W., Washington, D.C., and is available on the FCC's Internet site at www.fcc.gov/Bureaus/Engineering—Technology/—Orders/1999/. This document may also be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Report and Order

1. By this action, the Commission allocates 75 megahertz spectrum at 5.850–5.925 GHz to the mobile service for use by Dedicated Short Range Communications (''DSRC'') systems operating in the Intelligent Transportation System (''ITS'') radio service. ITS services are expected to improve traveler safety, decrease traffic congestion, facilitate the reduction of air pollution, and help to conserve vital fossil fuels. DSRC systems are being designed that require a short range wireless link to transfer information between vehicles and roadside systems. We are also adopting basic technical rules establishing power limits and unwanted emission limits for DSRC operations. The R&O defers consideration of licensing and service rules and spectrum channelization plans to a later proceeding because standards addressing such matters are still under development by the Department of Transportation. Once such standards are developed, the Commission could take whatever action is necessary to implement the standards related to DSRC use. The decisions made here will further the goals of the U.S. Congress and the DOT to improve the efficiency of the Nation's transportation infrastructure and will facilitate the growth and development of the ITS industry.

2. On June 11, 1998, the Commission released the *Notice of Proposed Rule Making* (''NPRM'') in ET Docket No. 98–95, 63 FR 35558, June 30, 1998, which proposed to allocate the 5.85–5.925 GHz band on a primary basis to the mobile service for use by DSRC-based ITS operations. ITS applications rely upon the integration of advanced communications systems and highway infrastructure systems. Communications are an essential component of the backbone of all ITS applications, which rely on the swift and accurate flow of information. While many ITS communications requirements are being met within the framework of existing telecommunications systems, the NPRM stated that there is a need for spectrum for reliable short-range wireless communications links between vehicles traveling at highway speeds and roadside systems, i.e., DSRC. Accordingly, the Commission proposed an allocation of 75 megahertz of spectrum near 5.9 GHz for DSRC operations and requested comment on various related matters.

3. On June 9, 1998, the President signed the *Transportation Equity Act for the 21st Century.* Section 5206(f) of this Act states that ''[t]he Federal Communications Commission shall consider, in consultation with the Secretary of Transportation, spectrum needs for the operation of intelligent transportation systems, including spectrum for the dedicated short-range vehicle-to-wayside wireless standard. Not later than January 1, 2000, the Federal Communications Commission shall have completed a rule making considering the allocation of spectrum for intelligent transportation systems.''

4. The R&O recognizes the substantial efforts by both Government and non-Government entities to develop, in response to Congress' transportation legislation, a National ITS Plan and Architecture addressing ways of using communications technologies to increase the efficiency of the nation's transportation infrastructure. While some parties argue that other spectrum may be more appropriate for DSRC operations, the Commission found that the 5.85–5.925 GHz band can accommodate a wide variety of reliable DSRC applications without significantly hindering other users of this spectrum.

Spectrum Allocation

5. Domestically, the entire 5.850–5.925 GHz band is currently allocated on a co-primary basis for the Government's Radiolocation Service (*i.e.,* for use by high-powered military radar systems) and for non-Government Fixed Satellite Service (''FSS'') uplink operations. Industrial, Scientific and Medical (''ISM'') devices and unlicensed part 15 devices are also permitted to operate in the 5.850–5.875 GHz segment. Finally, the Amateur radio service has a secondary domestic allocation in the entire band.

6. The R&O concludes that the 5.9 GHz range is appropriate for DSRC applications due to its potential compatibility with European and Asian DSRC developments, the availability of radio technology, signal propagation characteristics, and the available spectral capacity in this spectrum range. After carefully reviewing the record, we conclude that an allocation of spectrum in the 5.9 GHz region is the best available choice for DSRC applications. The record also demonstrates that the propagation characteristics of this region of the spectrum are well suited to the short range comunications of up to a mile that will typify DSRC operations. The ITS community has done research showing that the 5.85–5.925 GHz frequency band provides adequate range for DSRC

communications and reasonable frequency reuse distances.

7. First, we note that DSRC applications are a key element in meeting the nation's transportation needs into the next century and in improving the safety of our nation's highways. The record submitted for DSRC deployment in the U.S. indicates a need for up to 32 different DSRC transactions, many of which will require two-way capabilities, wideband channels, and the need for multiple channels in a single location. We also note that not all channels will be available for DSRC deployment in all areas due to incumbent radar, ISM and FSS operations. Therefore, we find that 75 megahertz of DSRC spectrum within the United States is warranted due to the scope of the National ITS Architecture, the incumbent operations in this band in the U.S. and consideration DSRC developments domestically and internationally.

8. The R&O also addresses, ITS compatibility issues with Canada and Mexico and concludes that our allocation is sufficient to promise interoperability with Canadian ITS developments. While discussions with Mexico are on-going, the Commission does not anticipate spectrum sharing problems with operations in Mexico. As service rules are developed and operations in these bands are more clearly defined, the need to develop coordination requirements in border areas will be considered. Nevertheless, the R&O encourages any entities addressing standards for ITS operations in the 5.9 GHz range to plan DSRC applications with the least potential for interference with Canadian operations for the 5.875–5.883 GHz and 5.908–5.925 GHz bands.

9. The R&O concludes that the 5.85–5.925 GHz band is appropriate for DSRC-based ITS applications due to the variety of operations to be accommodated, the propagation characteristics of the band, the significant efforts of the Federal and state governments paired with industry to research ITS use in this band, and ITS developments internationally. Accordingly, the R&O allocates the 5.850–5.925 GHz band on a primary basis to the mobile service for use by DSRC-based ITS operations. In order to insure that mobile operations in this range are ITS related, the item adopts footnote NG160 to the Table of Frequency Allocations to read as follows:

NG160: In the 5850–5925 MHz band, the use of the non-Federal government mobile service is limited to Dedicated Short Range Communications operating in the Intelligent Transportation System radio service.

Spectrum Sharing

10. *Government Radar Operations.* The National Telecommunications and Information Administration (''NTIA'') urges the Commission to require DSRC operations within 75 kilometers of 65 possible radar locations to coordinate their operations through the Frequency Assignment Subcommittee of the Interdepartment Radio Advisory Committee (''IRAC''). DOT provides a study that indicates that DSRC operations could operate in close proximity to most high powered Government radar operations. The R&O concludes that sharing between DSRC and Government operations is possible if proper coordination is performed, and thus adopts the NTIA recommendation. Further, DSRC applications within these coordination areas cannot claim protection from existing radar operations, but new radar installations that may be deployed subsequent to DSRC implementation would have to coordinate with incumbent DSRC operations.

11. *FSS Operations.* The R&O finds that DSRC applications would be compatible with FSS uplinks because FSS earth stations typically use highly directional antennas pointed towards the geostationary orbital arc, and DSRC applications would typically be pointed towards a highway and operate at relatively low power. It may be necessary in some cases for DSRC systems to avoid an area near an incumbent FSS earth station in order to avoid the high powered earth station transmission. Nonetheless, because of the limited number of FSS earth stations and their use of highly directional antennas, the R&O finds that spectrum sharing is feasible. At this time, the Commission does not anticipate that prior coordination is necessary between DSRC and FSS operations.

12. *Amateur Service Operations.* The R&O concludes that DSRC operations in the 5.85–5.925 GHz band are unlikely to receive significant interference from or cause interference to amateur operations. Further, the R&O notes that amateur operations are secondary in this spectrum range. The R&O does not anticipate that a formal coordination procedure will be necessary because amateur operations are not extensively deployed, and due to the availability of interference remedies if they occur. The R&O encourage any ITS entities wishing to use the 5.85–5.925 GHz band to informally notify the ARRL or the local amateur service community of its intended operation.

13. *Unlicensed Hearing Assistance Devices.* Resound filed comments stating that it is contemplating development of unlicensed low power hearing assistance devices in the 5.85–5.875 GHz band under the FCC's Part 15 rules. Even if the Commission were to preclude DSRC operations in the 5.85–5.875 GHz segment, the incumbent operations in this band already pose a significant interference environment for hearing assistance devices. The R&O recognizes that Resound's hearing assistance devices could be beneficial and encourage them to identify other spectrum that may be more appropriate for these devices.

Technical Requirements

14. The Secretary of Transportation submitted, in satisfaction of the June 1, 1999 statutory requirement, a report to Congress identifying which standards are critical to national interoperability or standards development and specifying the status of the development of each standard identified. The R&O concludes that it would be beneficial at this time to adopt basic technical requirements to promote spectrum sharing and create a basic framework for the development of DSRC operational standards by industry. The Commission recognizes that the rules it adopts here may need to be reviewed at a later time as it develops licensing and service rules for DSRC systems.

Spectrum Channelization

15. The R&O finds that a spectrum channelization plan would facilitate the efficient use of this spectrum and interoperability among various DSRC services. However, the record here is insufficient to devise a specific channel plan that would adequately address the spectrum requirements, both narrowband and broadband, of the various potential DSRC applications. This action invites the ITS industry and the DOT to consider the spectrum requirements of various DSRC applications and recommend a spectrum channel plan. The Commission will address this matter further in a future proceeding proposing licensing and service rules.

Power

16. The Commission finds that it is important to establish some power limits for DSRC operations so that they can achieve widespread deployment, and typically power requirements need to be flexible enough to allow various DSRC applications to be developed. Most DSRC operations will use highly directional antennas to focus communications in an intended

direction (*e.g.,* along the lane of a highway) and to promote frequency reuse. Therefore, the Commission has adopted the following power requirements for DSRC operations in the 5.85–5.925 GHz band:

The peak transmit output power over the frequency band of operations shall not exceed 750 mW or 28.8 dBm with up to 16 dBi in antenna gain. If transmitting antennas of directional gain greater than 16 dBi are used, the peak transmit output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 16 dBi, *i.e.,* the device's maximum EIRP shall not exceed 30 W EIRP. However, the peak transmitter output power may be increased to account for any line losses due to long transmission cables between the transmitter and the DSRC device's antenna, provided the EIRP does not exceed 30 W.

The Commission finds that this power limit is sufficient to satisfy many DSRC applications, compensate for transmission line losses, promote the deployment of various types of applications, and provide a high degree of frequency reuse. Nonetheless, the rules will require ITS licensees to use the minimal power necessary to achieve reliable communications in order to promote frequency reuse.

Unwanted Emission Limits

17. The R&O states that it is necessary to limit the amount of unwanted emissions, both those occurring outside of the DSRC spectrum band and those emanating from one channel to the next within the DSRC band. The unwanted emission limits proposed are appropriate and necessary to promote spectrum sharing between DSRC applications in the 5.85–5.925 GHz band. Accordingly, the Commission adopts the emission mask requirements of § 90.210(k) for DSRC operations in the 5.9 GHz band. The R&O recognizes that depending on the developing DSRC applications, the licensing scheme adopted and the corresponding spectrum channelization plan, the Commission may need to revisit the emission limits between specific channels or applications, *e.g.,* more sensitive applications on specific channels may require additional protection or a licensee with access to multiple consecutive channels in a geographic area could benefit from additional flexibility regarding unwanted emissions without affecting other operations.

Frequency Stability

18. The Commission proposed to apply to DSRC operations in the 5.9 GHz band the frequency stability requirement specified in § 2.995 (§ 2.1055) of our rules in order to prevent DSRC operations from causing interference to DSRC operations on other channels or to other services in nearby spectrum. However, part 90 has more specific frequency stability requirements in § 90.213 which vary according to the channel bandwidth of the operation. Since the R&O is not yet able to establish a channelization plan for DSRC operations, the Commission defers any decision on frequency stability requirements to a future proceeding.

RF Guidelines

19. The Commission requires compliance with RF safety guidelines for all applications to ensure the public's safety. Therefore, DSRC operations must comply with the RF safety guidelines contained in the *Second Memorandum Opinion and Order* (''Second MO&O'') in ET Docket No. 93–62, 62 FR 47960, September 12, 1997. The R&O finds that this level of protection is appropriate and will not result in exposure to the public of unsafe levels of RF energy.

Unlicensed DSRC Operations

20. Section 15.245 of the Commission's rules permits unlicensed field disturbance sensors to operate in the 5.785–5.815 GHz band. While these field disturbance sensors are not available for two-way information communications, the rules would permit backscatter type toll-tag operations in this band with a permitted average field strength of 500 millivolts/meter at a distance of 3 meters (75 mW EIRP). Additionally, § 15.247 of the rules permits unlicensed spread spectrum communications devices to operate in the 5.725–5.850 GHz band with a maximum peak transmitter output power of 1 watt with antenna gain of up to 6 dBi. Finally, § 15.249 permits unlicensed communications devices to operate in the 5.725–5.875 GHz band with a maximum average field strength of 50 millivolts/meter at a distance of 3 meters (0.8 mW EIRP

21. The R&O finds that a backscatter system that transmits an unmodulated carrier signal to a mobile transponder which, in turn, reflects a modulated signal, does not qualify as a conventional spread spectrum system under the part 15 rules. Part 15 defines a spread spectrum system as a system that conveys information by modulation of a carrier by some conventional means and then deliberately widens the bandwidth by means of a spreading function over that which would be needed to transmit the information alone. Because backscatter beacon stations do not modulate their carriers, they do not qualify as spread spectrum devices. The R&O declines to modify the rules to allow backscatter systems to qualify for use as spread spectrum systems under § 15.247. Nevertheless, the spread spectrum requirements of § 15.247 can likely accommodate a wide range of alternative unlicensed DSRC communication systems.

Other Issues

22. The Commission adopts the following definition of DSRC services for this mobile allocation in the 5.9 GHz range:

The use of non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. DSRC systems may also transmit status and instructional messages related to the units involved.

Final Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act (''RFA''),[1] an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into the *Notice of Proposed Rule Making* (''NPRM'') in ET Docket No. 98–95, 63 FR 35558, June 30, 1998. The Commission sought written comment on the proposals in the NPRM, including the IRFA. The Final Regulatory Flexibility Analysis (''FRFA'') in this Report and Order conforms to the RFA.[2]

A. Need for and Objective of This Report and Order (R&O).

This R&O allocates the 5.850–5.925 GHz band to the Private Land Mobile Service (''PLMS'') for use by Dedicated Short Range Communications Services (''DSRCS'') in the provision of Intelligent Transportation Services (''ITS''). DSRCS communications are used for non-voice wireless transfer of data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. The objective of this action is to provide sufficient spectrum to permit the development of DSRCS technologies 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, Public Law 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* 5 U.S.C. 604.

improve the Nation's transportation infrastructure and bolster the involvement of United States companies in this emerging industry. While this R&O does adopt an allocation and some basic technical parameters, the issues of licensing, channelization, and other complex technical matters are being deferred to a later proceeding. Therefore, because this present action will not result in the provision of these operations, the IRFA certified that the NPRM would not have a significant economic impact on a substantial number of small entities. Nevertheless, a full voluntary IRFA was performed. No comments directly addressed the IRFA.

B. Summary of Significant Issues Raised by the Comments in Response to the IRFA

No comments were filed in response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions.[3] The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. 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''). This standard also applies in determining whether an entity is a small business for purposes of the RFA. The 5.85–5.925 GHz band is currently available to the U.S. Federal Government for Radiolocation purposes, Fixed Satellite Service licensees for international intercontinental links, amateur radio operators and by various entities using part 18 Industrial, Scientific and Medical (''ISM'') equipment and part 15 unlicensed device equipment. We note that there are only 45 Fixed Satellite Service (''FSS'') licenses issued for operation in 5.85–5.925 GHz band and most if not all are held by large corporations. Further, amateur radio operators and the Federal Government do not qualify as small entities. We also note that part 18 ISM devices are protected in this band, which only generate electromagnetic energy, are not used for communication purposes and therefore cannot receive interference or be impacted by this action. Finally, while part 15 unlicensed devices are permitted to operate in the 5.85–5.875 GHz portion, they do so on an unlicensed, unprotected basis. Further, the Commission has no means to determine the number of small entities that might use unlicensed part 15 equipment that operates in the band at issue. SBA guidelines to the Small Business Regulatory Enforcement Fairness Act (''SBREFA'') state that about 99.7% of all firms are small and have fewer than 500 employees and less than $25 million in sales and assets.[4] There are approximately 6.3 million establishments in the SBA database.[5] The R&O discusses means by which the potential DSRCS would be able to share the spectrum with incumbent operations and concludes that harmful interference can be avoided through coordination. Accordingly, we do not believe this action would have a negative impact on small entities that operate in the 5.85–5.925 GHz band.

Regarding the Fixed Satellite Service licensees for international intercontinental links, the Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).[6] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[7] According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million.[8] The Census report does not provide more precise data. Regarding the future use of the 5.85–5.925 GHz band by DSRCS equipment, we believe it is too early to make an determination on such operations. A future rule making proceeding will propose further technical standards, licensing and service rules and a separate regulatory flexibility analysis will address all issues relevant to that proceeding.

D. Description of Projected Reporting, Record Keeping and Other Compliance Requirements

In this proceeding, we are allocating this spectrum for a new service. The licensing and technical regulations governing these operations will be addressed in a separate proceeding. Therefore, this action does not create any reporting or compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The IRFA in this proceeding requested comment on ways to minimize economic impact on small entities, but no comments were filed. Nevertheless, the attached R&O discusses whether operational standards should be adopted to facilitate nation-wide interoperability of DSRCS, but deferred this issue to a later proceeding that will develop service rules for these operations. The development of DSRCS operational standards could delay the initial deployment of such equipment, but could ultimately result in equal footing for all manufacturers, including small entities, in producing equipment that meets uniform standards.

F. Report to Congress

This Commission will send a copy of the R&O, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the R&O, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 2 and 90

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 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, 336 and 337, unless otherwise noted.

[3] *See* 5 U.S.C. 601(6).

[4] See *A Guide to the Regulatory Flexibility Act,* U.S. Small Business Administration, Washington, DC, May 1996, at page 14.

[5] *Id.* at 15.

[6] An exception is the Direct Broadcast Satellite (DBS) Service, *infra.*

[7] 13 CFR 120.121, SIC code 4899.

[8] *1992 Economic Census Industry and Enterprise Receipts Size Report,* Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise the entry for the 5850–5925 MHz band to read as follows.

b. Add footnote NG160.

§ 2.106 Table of Frequency Allocations

* * * * * * *

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE S5.150	5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Amateur Radiolocation S5.150	5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation S5.150	5850—5925 RADIOLOCATION G2 S5.150 US245	5850—5925 FIXED-SATELLITE (Earth-to-space) US245 MOBILE NG160 Amateur S5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)	
*	*	*	*	*	*	*

Non-Government (NG) Footnotes

* * * * *

NG160: In the 5850–5925 MHz band, the use of the non-Federal government mobile service is limited to Dedicated Short Range Communications operating in the Intelligent Transportation System radio service.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 251–2, 303, 309, 332, and 337, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309, and 332, unless otherwise noted.

4. Section 90.7 is amended by adding a new definition for Dedicated Short Range Communications Service to read as follows:

§ 90.7 Definitions.

* * * * *

Dedicated Short Range Communications Services (DSRCS) The use of non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. DSRC systems may also transmit status and instructional messages related to the units involved.

* * * * *

5. Section 90.205 is amended by redesignating paragraphs (m) and (n) as paragraphs (n) and (o), respectively; and by adding a new paragraph (m) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(m) *5850–5925 MHz.* The peak transmit output power over the frequency band of operations shall not exceed 750 mW or 28.8 dBm with up to 16 dBi in antenna gain. If transmitting antennas of directional gain greater than 16 dBi are used, the peak transmit output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 16 dBi, *i.e.,* the device's maximum EIRP shall not exceed 30 W EIRP. However, the peak transmitter output power may be increased to account for any line losses due to long transmission cables between the transmitter and the DSRCS device's antenna, provided the EIRP does not exceed 30 W.

* * * * *

6. Section 90.210 is amended by revising the ''APPLICABLE EMISSION MASKS'' Table and by revising paragraphs (k)(3), (k)(3)(i), and (k)(3)(ii) to read as follows:

§ 90.210 Emission masks.

* * * * *

APPLICABLE EMISSION MASKS

Frequency band (MHz)	Mask for equipment with Audio low pass filter	Mask for equipment without audio low pass filter
Below 25 [1]	A or B	A or C
25–50	B	C
72–76	B	C
150–174 [2]	B, D, or E	C, D, or E
150 Paging-only	B	C
220–222	F	F
421–512 [2]	B, D, or E	C, D, or E
450 Paging-only	B	G
806–821/851–866 [3].	B	G
821–824/866–869.	B	H
896–901/935–940.	I	J
902–928	K	K
929–930	B	G
5850–5925	K	K
All other bands	B	C

[1] Equipment using single sideband J3E emission must the requirements of Emission Mask A. Equipment using other emissions must meet the requirements of Emission Mask B or C, as applicable.

[2] Equipment designed to operate with a 25 kHz channel bandwidth must meet the requirements of Emission Mask B or C, as applicable. Equipment designed to operate with a 12.5 kHz channel bandwidth must meet the requirements of Emission Mask D, and equipment designed to operate with a 6.25 kHz channel bandwidth Must meet the requirements of Emission Mask E.

[3] Equipment used in this licensed to EA or non-EA systems shall comply with the emission mask provisions of § 90.691.

* * * * *

(k) * * *

(3) *Other transmitters.* For all other transmitters authorized under subpart M that operate in the 902–928 MHz band and for Dedicated Short Range Communication Services in the 5.850–5.925 GHz band, the peak power of any emission shall be attenuated below the power of the highest emission contained within the licensee's sub-band in accordance with the following schedule:

(i) On any frequency within the authorized bandwidth: Zero dB.

(ii) On any frequency outside the licensee's sub-band edges: 55 + 10 log(P) dB, where (P) is the highest emission (watts) of the transmitter inside the licensee's sub-band.

* * * * *

7. Section 90.350 is revised to read as follows:

§ 90.350 Scope.

The Intelligent Transportation Systems radio service is for the purpose of integrating radio-based technologies into the nation's transportation infrastructure and to develop and implement the nation's intelligent transportation systems. It includes the Location and Monitoring Service (LMS) and Dedicated Short Range Communications Service (DSRCS). Rules as to eligibility for licensing, frequencies available, and any special requirements for services in the Intelligent Transportation Systems radio service are set forth in this subpart.

8. A new § 90.371 is added to subpart M to read as follows:

§ 90.371 Dedicated short range communications service.

(a) These provisions pertain to systems in the dedicated short range communications services (DSRCS). DSRCS systems utilize non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. When authorized, DSRCS licensees operating systems in the 5850–5925 MHz band may serve individuals, federal government agencies and entities eligible for licensing in this Part, and must comply with the following requirements.

(b) DSRCS stations operating in the band 5850–5925 MHz shall not receive protection from Government Radiolocation services in operation prior to the establishment of the DSRCS station. Operation of DSRCS stations within 75 kilometers of the locations listed in the table below must be coordinated through the National Telecommunications and Information Administration.

Location	Latitude	Longitude
Ft. Lewis, WA	470525N	1223510W
Yakima Firing Center, WA.	464018N	1202135W
Ft. Carson, CO	383810N	1044750W
Ft. Riley, KS	385813N	0965139W
Ft. Shafter, HI	211800N	1574900W
Hunter Army Airfield, GA.	320100N	0810800W
Ft. Gillem, GA	333600N	0841900W
Ft. Benning, GA	322130N	0845815W
Ft. Stewart, GA	315145N	0813655W
Ft. Rucker, AL	311947N	0854255W
Yuma Proving Grounds, AZ.	330114N	1141855W
Ft. Hood, TX	310830N	0974550W
Ft. Knox, KY	375350N	0855655W
Ft. Bragg, NC	350805N	0790035W
Ft. Campbell, KY	363950N	0872820W
Ft. Polk, LA	310343N	0931226W
Ft. Leonard Wood, MO.	374430N	0920737W
Ft. Irwin, CA	351536N	1164102W
Ft. Sill, OK	344024N	0982352W
Ft. Bliss, TX	314850N	1062533W
Ft. Leavenworth, KS	392115N	0945500W
Ft. Drum, NY	440115N	0754844W
Ft. Gordon, GA	332510N	0820910W
Ft. McCoy, WI	440636N	0904127W
Ft. Dix, NJ	400025N	0743713W
Parks Reserve Forces Training Area, CA.	374254N	1214218W
Ft. Hunter Ligget, CA	355756N	1211404W
Pacific Missile Test Center, CA.	340914N	1190524W
Naval Air Development Center, PA.	401200N	0750500W
Mid-Atlantic Area Frequency Coordinator, MD.	381710N	0762500W
Naval Research Laboratory, MD.	383927N	0763143W
Naval Ocean Systems Center, CA.	324500N	1171000W
Naval Research Laboratory, DC.	385500N	0770000W
Naval Surface Weapons Center, MD.	390205N	0765900W
Naval Electronic Systems Engineering Activity, MD.	381000N	0762300W
Midway Research Center, VA.	382640N	0772650W
Aberdeen Proving Ground, MD.	392825N	0760655W
Ft. Huachuca, AZ	313500N	1102000W
Ft. Monmouth, NJ	401900N	0740215W
Picatinny Arsenal, NJ	405600N	0743400W
Redstone Arsenal, AL.	343630N	0863610W
White Sands Missile Range, NM.	322246N	1062813W
Army Research Laboratory, MD.	390000N	0765800W
Space and Missile Systems Center, CA.	335500N	1182200W
Edwards AFB, CA	345400N	1175200W
Patrick AFB, FL	281331N	0803607W
Eglin AFB, FL	302900N	0863200W
Holloman AFB, NM	322510N	1060601W
Kirtland AFB, NM	350230N	1063624W
Griffiss AFB, NY	431315N	0752431W
Wright-Patterson AFB, OH.	394656N	0840539W
Hanscom AFB, MA	422816N	0711725W
Nellis AFB, NV	361410N	1150245W
Vandenberg AFB, CA	344348N	1203436W
U.S. Air Force Academy, CO.	385800N	1044900W
Brooks AFB, TX	292000N	0982600W
Arnold AFB, TN	352250N	0860202W
Tyndall AFB, FL	300412N	0853436W
Charles E. Kelly Support Facility—Oakdale, PA.	402357N	0800925W

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Proposed Rules

Federal Register
Vol. 64, No. 227
Friday, November 26, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV00–959–1 PR]

Onions Grown in South Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the South Texas Onion Committee (Committee) for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202)720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would decrease the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions handled.

The South Texas onion marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.05 per 50-pound container or equivalent that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a mail vote, unanimously recommended 1999–2000 expenses of $271,000 for personnel, office, compliance, promotion, and research expenses. These expenses were approved in July 1999. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on September 16, 1999, and recommended 1999–2000 expenditures of $301,000 and an assessment rate of $0.04 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were $271,000.

The assessment rate of $0.04 is $0.01 lower than the rate currently in effect. The Committee voted to lower its assessment rate because at the current rate of assessment, income would exceed anticipated expenses by about $74,000 and the projected reserve on July 31, 2000 ($458,720), would exceed the level the Committee believes to be adequate to administer the program.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $97,200 for administrative expenses, $34,800 for compliance, $36,000 for promotion, and $133,000 for research projects. Budgeted expenses for these items in 1998–99 were $94,000, $36,000, $33,000, and $108,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at 7.5 million 50-pound equivalents, which should provide $300,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $384,720) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 80 producers of South Texas onions in the production area and approximately 37 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1998–99 marketing year, onions produced on 13,782 acres were shipped by the industry's 37 handlers with the average and median volume handled being 147,669 and 102,478 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 37 handlers were estimated to be $43.7 million, with average and median revenues being $1.1 million, and $820,000, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 37 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 80 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources is considered, a majority of the producers would not be considered small entities because receipts would exceed $500,000.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions. The Committee recommended 1999–2000 expenditures of $301,000 and an assessment rate of $0.04 per 50-pound container or equivalent. The proposed assessment rate of $0.04 is $0.01 lower than the 1998–99 rate. The quantity of assessable onions for the 1999–2000 fiscal period is estimated at 7.5 million 50-pound equivalents. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $97,200 for administrative expenses, $34,800 for compliance, $36,000 for promotion, and $133,000 for research projects. Budgeted expenses for these items in 1998–99 were $94,000, $36,000, $33,000, and $108,000, respectively.

The Committee voted to lower its assessment rate because at the current rate of assessment, income would exceed anticipated expenses by about $74,000 and the projected reserve on July 31, 2000 ($458,720), would exceed the level the Committee believes to be adequate to administer the program.

The Committee reviewed and recommended 1999–2000 expenditures of $301,000, which included increases in administrative and office salaries, and research programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Research Subcommittee and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the onion industry. The assessment rate of $0.04 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 7.5 million 50-pound equivalents for the 1999–2000 fiscal period. This is approximately $1,000 below the anticipated expenses, which the Committee determined to be acceptable. Funds from the Committee's reserve

will be used to make up the expected deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1999 marketing season could range between $7.00 and $12.00 per 50-pound container or equivalent of onions. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .571 and .333 percent.

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 16, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on August 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the proposed rule would decrease the assessment rate for assessable onions beginning with the 1999–2000 fiscal period; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.04 per 50-pound container or equivalent is established for South Texas onions.

Dated: November 8, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–30813 Filed 11–24–99; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: Under National Credit Union Administration's regulations, a federal credit union is allowed to offer group purchasing activities, including insurance plans, to its members. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its cost amount. NCUA is soliciting public comment on, among other things, whether NCUA should amend this regulation to set forth credit union's incidental powers that would not have a limit on reimbursement. Information from interested parties will assist NCUA in determining whether to issue a proposed rule on incidental authorities and group purchasing.

DATES: The NCUA must receive comments on or before February 24, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney or Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, Part 721 sets forth the rules governing federal credit union (FCU) group purchasing activities, including insurance plans. Group purchasing activities are generally understood to mean FCUs making the products or services of third-party vendors available to their members. FCUs may provide an endorsement and perform administrative functions on behalf of the vendors. 12 CFR 721.1.

Part 721 was originally issued as a way to foster the educational role of credit unions.

The regulation evolved into a method for credit unions to provide information, products and services to their members through outside vendors. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its ''cost amount.'' 12 C.F.R. 721.2(a)(2) For insurance products, except as otherwise provided by state law, compensation is unlimited with respect to insurance sales, by the credit union or its employees, which are directly related to an extension of credit by the credit union or directly related to the opening or maintenance of a share, share draft or share account at the credit union.

The legal authority for the activities covered by Part 721 is the incidental powers provision of the Federal Credit Union Act. That provision states that a federal credit union may ''exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.'' 12 U.S.C. 1757(17). NCUA's current test of what is an incidental power is whether the activity is convenient or useful to the credit union's business as expressly authorized by the Federal Credit Union Act. NCUA's position on incidental

powers has been based on *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427 (1st Cir. 1972). This case established a test for determining the incidental powers of national banks. Recent case law has broadened the analysis of incidental powers for banks, and we believe that it is time to revisit the scope of that authority for credit unions.

In *Arnold Tours,* the court derived incidental powers solely from the express powers enumerated in the National Bank Act. The court examined whether a national bank was exercising an incidental power by operating a full-scale travel agency. National banks may exercise ''all such incidental powers as shall be necessary to carry on the business of banking.'' 12 U.S.C. 24 (Seventh). The court found that ''[t]he most reliable guides as to what is encompassed in the term 'the business of banking' are the express powers of national banks.'' 472 F.2d at 431. In determining that banks could not operate travel agencies, the court held:

> [A] national bank's activity is authorized as an incidental power, ''necessary to carry on the business of banking'' . . . if it is convenient or useful in connection with the performance of one of the bank's established activities pursuant to its express powers under the National Bank Act. If this connection between an incidental activity and an express power does not exist, the activity is not authorized as an incidental power.

Id. at 432.

The court's incidental powers test looked to whether the activity was convenient or useful to the express power authorized by the law.

However, recent case law has broadened the ''business of banking'' analysis and expanded the incidental powers of national banks. In an appellate case where a bank wanted to establish a subsidiary to offer municipal bond insurance, the court held that insuring such bonds was functionally equivalent to the issuance of stand-by letters of credit, a product permitted within the business of banking. *American Insurance Association* v. *Clarke,* 865 F.2d 278 (D.C. Cir. 1988). Expanding the test of *Arnold Tours,* the court explained:

> Appellant argues that a bank may engage only in those activities specifically mentioned and others incident (i.e. convenient or useful) to the expressly authorized activities. We agree with the district court, however, that this reflects ''a narrow and artificially rigid view of both the business of banking and the National Bank Act.'' 656 F.Supp at 408. Rather than attempt to correlate municipal bond insurance to a specific power mentioned in section 24(Seventh), the Comptroller focused on the essence of [the subsidiary's] service: the provision of credit.

Id. at 281.

Another court found that national banks were permitted to offer debt cancellation contracts. ''The 'incidental powers'' of national banks are not limited to activities that are deemed essential to the exercise of express powers. Rather, courts have analyzed the issue by asking whether the activity is closely related to an express power and is useful in carrying out the business of banking.'' *First National Bank of Eastern Arkansas* v. *Taylor,* 907 F.2d 775, 778 (8th Cir. 1990). The court found that debt cancellation contracts were directly related to the bank's lending activities. The court also found that these contracts were a convenient method of extinguishing debt to avoid the costs of collection efforts.

The U.S. Supreme Court continued this trend in *Nationsbank of North Carolina* v. *Variable Annuity Life Insurance Co.* (VALIC), 513 U.S. 251 (1995). In *VALIC,* the Court examined whether a national bank's subsidiary could act as an agent in the sale of annuities. The Court agreed with the Comptroller that the business of banking includes the brokerage of financial investment instruments. As such, national banks may ''serve as agents for their customers in the purchase and sale of various financial investment instruments * * * and annuities are widely recognized as just such investment products.'' *Id.* at 259. In evaluating the case, the unanimous Court stated:

> We expressly hold that the ''business of banking'' is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated. The exercise of the Comptroller's discretion, however, must be kept within reasonable bounds. Ventures distant from dealing in financial investment instruments—for example, operating a general travel agency—may exceed those bounds.

Id. at 259, n. 2.

Subsequent case law has applied this less restrictive analysis. An appellate court found that a division of a national bank could enter into engagement contracts as a broker. The court gave deference to the OCC's finding that ''allowing banks to use their expertise as an intermediary effectuating transactions between parties facilitates the flow of money and credit through the economy'' and therefore falls within the bank's incidental powers necessary to carry on the business of banking. *Norwest Bank Minnesota, N.A.* v. *Sween Corporation,* 118 F.3d 1255, 1260 (8th Cir. 1997).

Recent OCC opinions exemplify that agency's approach to the incidental powers question. In one instance, the OCC found a bank subsidiary was permitted to underwrite credit related insurance for credit cards and safe deposit box liability insurance. OCC Corporate Decision #97–92, November 1997. The OCC first considered whether the activity was viewed as part of the ''business of banking,'' and then to whether the activity was incidental to the business of banking. Based on a string of judicial decisions, the OCC uses the following three principles to determine whether an activity is within the scope of the ''business of banking'': (1) Is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and (3) does the activity involve risks similar in nature to those already assumed by banks.'' *Id.* at 3.

The NCUA Board believes that recent case law allows the agency to adopt a more expansive view of a credit union's incidental power authority. In addition, the NCUA Board has found the OCC's analysis persuasive and is requesting comment on whether NCUA should adopt a similar position.

B. How the Regulation Should Be Amended

The NCUA Board is considering retitling the regulation, ''Incidental Powers and Group Purchasing Activities,'' and restructuring it into four distinct sections. As discussed above, the NCUA Board is considering expanding its view of the incidental powers of an FCU.

The NCUA Board is considering and seeking specific comment on the structure of the first section regarding incidental powers. This section would list activities, or categories of activities, considered to be within the incidental powers of a federal credit union. At this time, descriptions of what specific activities are permissible as an exercise of an FCU's incidental powers are found in legal opinions issued by the Office of General Counsel. For example, among other activities, NCUA opinion letters have stated that electronic tax filing, raffles to encourage member voting, and check clearing services for a sponsor/member are all permissible incidental powers activities. The preamble to this section would list those activities or categories of activities currently permitted and specify that the list is illustrative but not exclusive. The NCUA Board believes it may be helpful

for credit unions if the agency listed, in addition to the approved activities, or categories of activities, a process for a credit union to request additional activities that may be within the credit union's incidental authority. The NCUA Board would specify the manner in which credit unions could apply for confirmation that an incidental power is permissible. The NCUA Board further requests that commenters suggest standards to be considered when analyzing the permissibility of an activity, or a category of activities as an incidental power. The Board is also interested in receiving comments on examples of activities and categories of activities which could be considered as incidental to the business of credit unions.

Some credit unions may not realize they may earn money from their incidental power activities. Therefore, staff is considering whether the revised regulation should explicitly state that FCUs are not limited in the amount they may earn from incidental powers activities to clear up any lingering confusion.

The second section would authorize group purchasing activities and limit compensation to the credit union's cost amount. Generally, this section would track the current regulation. The NCUA Board believes it may be helpful to include a fuller description of what a group purchasing plan is and clarify ''cost amount.'' The NCUA Board is also considering including in the regulation a provision regarding the sale of mailing lists. The provision would likely incorporate NCUA's long-standing position that an FCU may sell mailing lists as a means of facilitating group purchasing for members but that, as for all group purchasing activities, an FCU's compensation is limited. In connection with a provision on mailing lists, the NCUA Board intends to incorporate its longstanding view that no information about the member other than a member's name and address, such as personal information about the member's business with the credit union, can be included in the sale of the mailing list. This view is consistent with NCUA's longstanding interpretation of the confidentiality provision contained in the standard FCU Bylaws. The NCUA Board is also requesting comment on whether a member should have the option to elect to have their name deleted from any mailing list provided to a third party.

The NCUA Board is seeking comment on the limit of compensation to the credit union's cost amount, whether any limit is appropriate, and should reasonable value be added to the credit union's cost when applying the compensatory limit. The NCUA Board is also requesting comment on how the term ''reasonable value'' should be defined.

The third section would focus on insurance products activities as a longstanding incidental authority. This section would track the current regulation and state that an FCU may receive unlimited compensation with respect to the sale of insurance products that are directly related to a credit union loan or the opening and maintenance of any type of share account. In addition, the term ''insurance products'' would be defined for purposes of this regulation.

The fourth section would set forth the current conflict of interest provision applicable to group purchasing activities, including insurance activities. The regulation currently states that ''[n]o director, committee member, or senior management employee of a Federal credit union or any immediate family member of any such individual may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this Part.'' The current section defines ''immediate family member'' and ''senior management employee,'' but the meaning of the phrase ''in conjunction with any activity'' has been the cause of some confusion. Thus, the NCUA Board believes it would be helpful to clarify how this phrase should be applied.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30695 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–51–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain General Electric Company (GE) GE90 series turbofan engines. This proposal would reduce the cyclic life limits for certain mid fan shafts with undesirable microstructure, and remove from service those mid fan shafts prior to exceeding the new limits and replace with serviceable parts. Reports of magnetic particle inspections conducted by the manufacturer identifying segregation in the raw material, resulting in lower fatigue life properties, prompted this proposal. The actions specified by the proposed AD are intended to prevent mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–51–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports from General Electric Company (GE) that the cyclic life limits for certain mid fan shafts installed on GE90–90B, –85B, and –76B series turbofan engines must be reduced. The manufacturer advises that retained austenite has been observed in these mid fan shafts due to segregation in the raw material. Material property testing indicates that reduced low cycle fatigue (LCF) properties result, requiring reduced life limits. This condition, if not corrected, could result in mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would reduce the cyclic life limits for affected mid fan shafts, and remove from service those mid fan shafts prior to exceeding the new limits and replace with serviceable parts.

Economic Analysis

There are approximately 118 engines of the affected design in the worldwide fleet. The FAA estimates that 4 engines installed on aircraft of US registry would be affected by this proposed AD and that the prorated life reduction would cost approximately $71,000 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $284,000.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 98–ANE–51–AD.

Applicability: General Electric Company (GE) GE90–90B, –85B, and –76B series turbofan engines, with mid fan shafts, part numbers (P/Ns) 1767M71G01, 1767M71G02, and 1767M75G02, installed. These engines are installed on but not limited to Boeing 777 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Reduced Life Limits

(a) Remove from service mid fan shafts and replace with serviceable parts prior to the following new, lower cyclic life limits:

(1) For mid fan shafts, P/N 1767M71G01, installed on GE90–85B and –90B series engines, the new life limit is 4,200 cycles-since-new (CSN).

(2) For mid fan shafts, P/N 1767M71G02, installed on GE90–85B and –90B series engines, the new life limit is 4,200 CSN.

(3) For mid fan shafts, P/N 1767M75G02, installed on GE90–76B, –85B, and –90B series engines, the new life limit is 8,200 CSN.

(b) This AD establishes new life limits for mid fan shafts, P/N 1767M71G01, 1767M71G02, and 1767M75G02. Except as provided in paragraph (c) of this AD, no alternate life limits for these affected parts may be approved.

Alternative Methods of Compliance

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

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

Ferry Flights

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

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30804 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes, and Model MD–88 and MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes, that would have required replacement of the lanyard assembly pins of the evacuation slides with solid stainless steel pins. That proposal was prompted by a report that, due to stress corrosion on the lanyard pins, the arms of the lanyard assembly of the evacuation slide were found to be frozen. This new action revises the applicability of the proposed rule to include one additional airplane and remove another. The actions specified by this new proposed AD are intended to prevent the improper deployment of the evacuation slide due to stress corrosion, which could delay or impede evacuation of passengers during an emergency.

DATES: Comments must be received by December 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5338; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–244–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on December 18, 1998 (63 FR 70069). That NPRM would have required replacement of the lanyard assembly pins of the evacuation slides with solid stainless steel pins. That NPRM was prompted by a report that, due to stress corrosion on the lanyard pins, the arms of the lanyard assembly of the evacuation slide were found to be frozen. That condition, if not corrected, could result in improper deployment of the evacuation slide due to stress corrosion, which could delay or impede evacuation of passengers during an emergency.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM.

Request to Reference Latest Service Information

One commenter requests that the applicability of the proposed AD be revised to reference Revision 02 of McDonnell Douglas Alert Service Bulletin DC9–25A357, dated May 28, 1998. The commenter states that the effectivity listing of this alert service bulletin has been revised.

The FAA concurs with the commenter's request to reference Revision 02 of the alert service bulletin. The FAA has reviewed and approved Revision 02 of McDonnell Douglas Alert Service Bulletin DC9–25A357, dated May 28, 1998 (for Model DC–9 series airplanes and Model MD–88 airplanes). The replacement procedures described in this revised alert service bulletin are essentially identical to those described Revision 01 of the service bulletin (which was referenced in the supplemental NPRM as an appropriate source of service information for accomplishment of the replacement). However, the effectivity listing of the alert service bulletin has been revised to delete one MD–90–30 airplane (i.e., fuselage number 2167) and include one DC–9 series airplane (i.e., fuselage number 2166) that is subject to the identified unsafe condition. Therefore, the FAA has revised the supplemental NPRM to reference Revision 02 of the alert service bulletin as the appropriate source of service information (for certain airplanes) for determining the applicability of the supplemental NPRM, and as an additional source of service information for accomplishing the required replacement.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide

additional opportunity for public comment.

Cost Impact

There are approximately 2,167 McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,200 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $146,400, or $122 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 97–NM–244–AD.

Applicability: Model DC–9 series airplanes, and Model MD–88 airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–25A357, Revision 02, dated May 28, 1998; and Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–25A019, dated February 11, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 improper deployment of the evacuation slide, which could delay or impede evacuation of passengers during an emergency, accomplish the following:

Replacement

(a) Within 180 days after the effective date of this AD, replace the lanyard assembly pins of the evacuation slides with solid corrosion-resistant pins, in accordance with McDonnell Douglas Alert Service Bulletin DC9–25A357, dated February 11, 1997, Revision 01, dated March 16, 1998, or Revision 02, dated May 28, 1998 (for Model DC–9 series airplanes and Model MD–88 airplanes); or McDonnell Douglas Alert Service Bulletin MD90–25A019, dated February 11, 1997 (for Model MD–90–30 airplanes); as applicable.

Spares

(b) As of the effective date of this AD, no lanyard assembly, part number (P/N) 3961899–1 or P/N 3956939–501, shall be installed on any airplane unless that assembly has been modified in accordance with the requirements of paragraph (a) of this AD.

Alternate Methods of Compliance

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

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

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

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30803 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–102–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes. That action would have required a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit in-flight operation of the auxiliary power unit (APU). That proposal also would have required inspection of the APU fire extinguisher discharge cartridge for corrosion, and replacement of the discharge cartridge with a new cartridge, if necessary; and modification of the fire extinguishing system tube assembly. Accomplishment of these actions would have terminated the AFM revision. Since the issuance of the NPRM, the manufacturer has advised the Federal Aviation Administration (FAA) that, on all of the affected Model 328–100 series airplanes, the APU fire extinguisher discharge cartridges have been inspected, all corroded discharge cartridges have been replaced with new cartridges, and modification of the fire extinguishing system tube assemblies

has been accomplished. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2196; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, was published in the **Federal Register** on June 28, 1999 (64 FR 34590). The proposed rule would have required a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit in-flight operation of the auxiliary power unit (APU); inspection of the APU fire extinguisher discharge cartridge for corrosion, and replacement of the discharge cartridge with a new cartridge, if necessary; and modification of the fire extinguishing system tube assembly. After accomplishment of the inspection, modification, and replacement (if necessary), the AFM revision would be removed. The proposed rule was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The proposed actions were intended to correct deficiencies in the design of the fire extinguishing system that did not allow for adequate fluid drainage. This condition, if not corrected, could have resulted in operational failure of the APU fire extinguisher.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the manufacturer has provided the FAA with confirmation that, on all of the affected Dornier Model 328–100 series airplanes, the APU fire extinguisher discharge cartridges have been inspected, all corroded discharge cartridges have been replaced with new cartridges, and modification of all the fire extinguishing system tube assemblies has been accomplished.

FAA's Conclusions

Upon further consideration, the FAA has determined that the proposed actions of the NPRM (Rules Docket 99–NM–102–AD) are unnecessary since the unsafe condition that those actions were intended to address no longer exists. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed rule nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 99–NM–102–AD, published in the **Federal Register** on June 28, 1999 (64 FR 34590), is withdrawn.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30802 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires a one-time inspection to determine the part number of the fuel shutoff spar valve for the outboard engines. That AD also requires replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. This action would add new requirements to accomplish those actions on additional airplanes; and would require a one-time inspection of the maintenance records of certain airplanes to determine if the fuel shutoff spar valve for the outboard engines has ever been replaced, and various follow-on actions. This proposal is prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed. The actions specified by the proposed AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage, and, consequently, lead to an engine fire.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or ITT Aerospace Controls, 28150 Industry Drive, Valencia, California 91355. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dionne M. Stanley, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2250; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–192–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 6, 1998, the FAA issued AD 98–21–29, amendment 39–10837 (63 FR 55517, October 16, 1998), applicable to Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes, having line numbers 629 through 1006 inclusive, and powered by General Electric or Rolls-Royce engines, to require a one-time visual inspection to determine the part number of the fuel shutoff valve for the outboard engines. That AD also requires replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. That action was prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed on in-service airplanes. The requirements of that AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage, and, consequently, lead to an engine fire.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received two reports indicating that, due to high fuel pressure, the fuel system components of the outboard engine have failed on Model 747 series airplanes having line numbers 629 through 1006 inclusive, and powered by Pratt & Whitney engines. Therefore, these airplanes are also subject to the identified unsafe condition.

In addition, since issuance of AD 98–21–29, the FAA has determined that Model 747 series airplanes having line numbers 1 through 628 inclusive may also have improper engine fuel shutoff spar valves installed. Proper valves were installed during production; however, the potential exists that, during a maintenance action on these airplanes, the original valve was replaced with an improper valve. Therefore, these airplanes are also subject to the identified unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998, and Revision 2, dated July 8, 1999, which describe procedures for an inspection to determine the part number of the fuel shutoff spar valve for the outboard engines; and replacement of certain valves with new valves and various follow-on actions. These follow-on actions include aligning valve(s), performing a check to detect leaks, and correcting any discrepancy. Revision 2 of the service bulletin also describes procedures, for certain airplanes, for an inspection of the airplane maintenance records to determine if the fuel shutoff spar valves for the outboard engines have ever been replaced or if the engines in the inboard positions have ever been installed in the outboard positions, and an inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve and replacement of any discrepant part with a serviceable part. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–21–29 to continue to require the actions specified in that AD. The proposed AD would add new requirements to accomplish those actions on additional airplanes; and would require a one-time inspection of the maintenance records of certain airplanes to determine if the fuel shutoff spar valve for the outboard engines has ever been replaced, and various follow-on actions that are specified in AD 98–21–29. Certain actions would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Changes Made to the Requirements of AD 98–21–29

The FAA has incorporated previously approved alternative methods of compliance to AD 98–21–29. Paragraph (a) has been revised by adding Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998, and Revision 2, dated July 8, 1999, as appropriate sources of service information. Paragraphs (b) and (c) have been revised by adding Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999, as an appropriate source of service information. Additionally, a note has been added to identify the applicable maintenance manual sections for the inspections specified in paragraphs (b) and (c).

The FAA also has clarified the inspection requirements contained in paragraphs (b) and (c) of the AD. Whereas AD 98–21–29 specified a one-time inspection, the FAA has revised paragraphs (b) and (c) to clarify that its intent is to require a one-time general visual inspection. Additionally, a note has been added to the proposed rule to define that inspection.

Cost Impact

There are approximately 987 airplanes of the affected design in the worldwide fleet. The FAA estimates that 208 airplanes of U.S. registry would be affected by this proposed AD.

The one-time inspection to determine the part number of the valve that is currently required by AD 98–21–29 and retained in this proposed AD, which would affect approximately 59 airplanes of U.S. registry, takes approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on U.S. operators is estimated to be $14,160, or $240 per airplane.

Should an operator be required to accomplish the one-time inspection to detect leaks and cracks (after replacement of the valve or modification of the assembly) that is currently required by AD 98–21–29 and retained in this proposed AD, it would take approximately 16 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection is estimated to be $960 per airplane.

The new one-time inspection of the maintenance records of the airplane that is proposed in this AD action, which would affect approximately 149 airplanes of U.S. registry, would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $17,880, or $120 per airplane.

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

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

Should an operator elect to modify the valve body assembly of the fuel system rather than replace a discrepant valve, it would take approximately 20 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $404 (2 kits) per airplane. Based on these figures, the cost impact of this inspection is estimated to be $1,604 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10837 (63 FR 55517, October 16, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–192–AD. Supersedes AD 98–21–29, Amendment 39–10837.

Applicability: Model 747 series airplanes, line numbers 1 through 1006 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent high fuel pressure in components between the fuel shutoff spar valve and the engine fuel shutoff valve, which could result in failure of the fuel system components, lead to fuel leakage, and, consequently, lead to a possible engine fire, accomplish the following:

Restatement of Actions Required by AD 98–21–29, Amendment 39–10837:

One-Time Inspection

(a) For airplanes having line numbers 629 through 1006 inclusive and powered by General Electric or Rolls-Royce engines: Within 18 months after November 20, 1998 (the effective date of AD 98–21–29, amendment 39–10837), perform a one-time inspection to determine the part number of the fuel shutoff spar valve for the left- and right-hand outboard engines, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996; Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998; or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

Replacement

(1) If a valve having part number (P/N) S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is not installed, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the valve with a new valve, in accordance with the service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

Inspection

(b) For airplanes having line numbers 629 through 1006 inclusive and powered by General Electric or Rolls-Royce engines: Except as provided in paragraph (c) of this AD, prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with the applicable section that pertains to Rolls-Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 Airplane Maintenance Manual (AMM), or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part. No further action is required by this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(c) For airplanes having line numbers 629 through 1006 inclusive, powered by General Electric or Rolls-Royce engines, and having maintenance records that positively demonstrate that the inboard engines have never been located in the outboard position: Prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on the outboard engines only, in accordance with the applicable section that pertains to Rolls-Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 AMM, or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part. No further action is required by this AD.

Note 3: Accomplishment of the actions specified in AMM 71–00–00/501, Test No. 2, ''Fuel and Oil Leak Check,'' for Rolls-Royce RB211 series engines, and AMM 71–00–00/501, Test No. 3, ''Ground Test—Idle Leak Check (or Idle Power),'' for General Electric CF6–80C and CF6–45/50 series engines, is acceptable for compliance with the actions specified by paragraphs (b) and (c) of this AD.

New Actions Required by This AD

Inspection

(d) For airplanes having line numbers 1 through 628 inclusive: Within 18 months after the effective date of this AD, perform a one-time inspection of the maintenance records of the airplane to determine if the fuel shutoff spar valve for the left- and right-

hand outboard engines has ever been replaced, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

(1) If neither valve has been replaced, no further action is required by this AD.

(2) If either valve has been replaced, prior to further flight, accomplish paragraph (e) of this AD for that valve.

(e) For airplanes having line numbers 629 through 1006 inclusive and powered by Pratt & Whitney engines, or for airplanes having line numbers 1 through 1006 inclusive and powered by General Electric or Rolls-Royce engines on which a fuel shutoff spar valve has been replaced: Within 18 months after the effective date of this AD, perform a one-time inspection to determine the part number of the fuel shutoff spar valve for the left- and right-hand outboard engines, as applicable, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996; Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998; or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

Replacement

(1) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N 60B92406–161 (ITT P/N 125334–1), P/N 60B92406–81 (ITT P/N 125120–1), or P/N 60B92406–201 (ITT P/N 107970–1) is installed, accomplish either paragraph (f) or (g) of this AD, as applicable.

(3) If a valve having P/N S343T003–40 (ITT P/N 125334D–1), P/N 60B92406–161 (ITT P/N 125334–1), P/N 60B92406–81 (ITT P/N 125120–1), or P/N 60B92406–201 (ITT P/N 107970–1) is not installed, prior to further flight, accomplish either paragraph (e)(3)(i) or (e)(3)(ii), and either paragraph (f) or (g) of this AD, as applicable.

(i) Replace the valve with a new valve, in accordance with the service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

Inspection

(f) Except as provided in paragraph (g) of this AD, prior to further flight following accomplishment of paragraph (e) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part.

(g) For airplanes having maintenance records that positively demonstrate that the inboard engines have never been located in the outboard position: Prior to further flight following accomplishment of paragraph (e) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on the outboard engines only, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(h)(2) Alternative methods of compliance, approved previously in accordance with AD 98–21–29, amendment 39–10837, are approved as alternative methods of compliance with paragraph (a), (a)(1), (a)(2), (a)(2)(i), (b), and (c) of this AD.

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

Special Flight Permits

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

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30801 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–219–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02. This proposal would require removal of the gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed with higher torque. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–219–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on Dornier Model 328–100 series airplanes equipped with ground spoiler actuators having part number 1059A0000–02. The LBA advises that the gland attachment bolts of the ground spoiler actuator have been found loose or broken due to inadequate torquing, which can result in hydraulic fluid leakage. This condition, if not corrected, could result in loss of the main hydraulic system.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–27–289, dated March 3, 1999, which describes procedures for removal of the four gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed at a higher torque. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 1999–175, dated June 3, 1999, in order to assure the continued airworthiness of these airplanes in Germany.

The Dornier service bulletin references Liebherr Service Bulletin 1059A–27–01, dated March 5, 1999, as an additional source of service information for accomplishment of the replacement.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,440, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier Luftfahrt GMBH: Docket 99–NM–219–AD.

Applicability: Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02, 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 hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system, accomplish the following:

Replacement

(a) Prior to the accumulation of 3,300 total flight hours, or within 330 flight hours after the effective date of this AD, whichever occurs later, remove the four gland attachment bolts of the ground spoiler actuator and replace with new bolts installed at a higher torque, in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Note 2: Dornier Service Bulletin SB–328–27–289, dated March 3, 1999, refers to Liebherr Service Bulletin 1059A–27–01, dated March 5, 1999, as an additional source of service information for accomplishment of the replacement.

Spares

(b) As of the effective date of this AD, no person shall install, on any airplane, a ground spoiler actuator having part number 1059A0000–02, unless it has been modified in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Alternative Methods of Compliance

(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 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.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in German airworthiness directive 1999–175, dated June 3, 1999.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30800 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–306–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that currently requires repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. This action would continue to require repetitive inspections, but would also require replacement of cracked or damaged diaphragm support structures with improved parts, which would terminate the requirement for repetitive inspections. This action also would add airplanes to the applicability of the proposed AD. This proposal is prompted by the development of improved diaphragms. The actions specified by the proposed AD are intended to prevent failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–306–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–306–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–306–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 9, 1998, the FAA issued AD 98–24–01, amendment 39–10888 (63 FR 63975, November 18, 1998), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, to require repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to detect and correct failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe.

In the preamble to AD 98–24–01, the FAA indicated that the actions required by that AD were considered ''interim action'' and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has issued new service information that specifies procedures for replacement of both diaphragms with improved diaphragms if any cracking or damage is found. The replacement would eliminate the need for the repetitive inspections.

The new service information also expands the applicability to include additional airplanes. This proposal would modify the applicability to include only those airplanes on which modification of the diaphragm support structure has not been accomplished. Reference to constructors numbers has been removed from the applicability of this proposed AD.

Explanation of Relevant Service Information

British Aerospace has issued Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, which describes procedures for replacement of cracked or damaged diaphragm support structures with improved parts, in addition to the repetitive inspections described in the original release of the service bulletin. This replacement would eliminate the need for further repetitive inspections. Accomplishment of the actions specified in Revision 1 of the service bulletin is intended to adequately address the identified unsafe condition. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–24–01 to continue to require the actions specified in that AD. This proposed AD would also require accomplishment of the actions specified in Revision 1 of the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, this proposed AD would not permit further flight if cracks are detected in certain diaphragms that support the upper structure of the forward equipment compartment. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject diaphragm that is found to be cracked must be replaced with new, improved parts prior to further flight.

Cost Impact

There are approximately 59 airplanes of U.S. registry that would be affected by this proposed AD.

The inspection that is currently required by AD 98–24–01, and retained in this proposed AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection requirement of this proposed AD on U.S. operators is estimated to be $3,540, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10888 (63 FR 63975, November 18, 1998), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 99–NM–306–AD. Supersedes AD 98–24–01, Amendment 39–10888.

Applicability: Jetstream Model 4101 airplanes, on which British Aerospace Modification JM41384 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe, accomplish the following:

Restatement of Certain Requirements of AD 98–24–01

(a) For airplanes having constructors numbers 41004 through 41098 inclusive: Prior to the accumulation of 4,500 total landings, or within 300 landings after December 23, 1998 (the effective date of AD

98–24–01, amendment 39–10888), whichever occurs later: Perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, or Revision 1, dated July 30, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, accomplish the actions required by either paragraph (a)(2)(i) or (a)(2)(ii). After the effective date of this AD, only replacement of the diaphragms in accordance with paragraph (a)(2)(ii) of this AD is acceptable for compliance with the repair requirements of this paragraph.

(i) Repair the diaphragm in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection at intervals not to exceed 3,000 landings.

(ii) Replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

New Repetitive Inspections and Corrective Actions Required by This AD:

(b) For airplanes other than those listed in paragraph (a) of this AD: Prior to the accumulation of 4,500 total landings, or within 300 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999.

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

(c) Replacement of diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

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

Note 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.

Special Flight Permits

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

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30799 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–307–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777–200 series airplanes. This proposal would require one-time inspections to detect cracking of the aft wheel well bulkhead, and corrective actions, if necessary. This proposal also would require modification of the aft wheel well bulkhead. For certain airplanes, this proposal also would require a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice area of the aft wheel well bulkhead, and corrective actions, if necessary. This proposal is prompted by a report indicating that numerous fatigue cracks were found in the aft wheel well bulkhead. The actions specified by the proposed AD are intended to prevent fatigue cracking of the aft wheel well bulkhead, which could result in rapid in-flight decompression of the airplane.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice

must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–307–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating numerous fatigue cracks have been found in the aft wheel well bulkhead of a Boeing Model 777–200 test airplane. During full-scale fatigue testing of the airplane, cracks between 0.15 to 1.5 inches long occurred at 55,186 flight cycles. The cracks were detected at the bulkhead web cut-out for the air driven pump duct, at the side fitting to lower chord splice area, and both sides of the splice joint of the aft wheel well bulkhead. At 110,000 flight cycles, cracks were detected in the vertical flange of the lower chord at the fairing support bracket attachment. Such fatigue cracking, if not detected and corrected, could result in rapid in-flight decompression of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, which describes procedures for a one-time visual inspection to detect cracking of the adjacent structure of the aft wheel well bulkhead, and a one-time high frequency eddy current (HFEC) inspection to detect cracking of certain fastener holes in the web, side fitting, and outer chord of the aft wheel well bulkhead, and corrective actions, if necessary. The corrective actions involve, for certain airplanes, removing additional fasteners, oversizing the cracked fastener holes, performing additional HFEC inspections, and replacing the fasteners with new fasteners.

For certain airplanes, Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, describes procedures for modification of the aft wheel well bulkhead. The modification involves cold working certain fastener holes; replacing the fairing support brackets and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims.

Additionally, for certain airplanes, Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, describes procedures for a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice of the aft wheel well bulkhead, and corrective actions, if necessary. The corrective actions involve removing the excess sealant between stringers S–27L to S–27R prior to accomplishing the inspections and modification of the aft wheel well bulkhead.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

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

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the Boeing alert service bulletin specifies that the manufacturer may be contacted for disposition of certain cracking conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Additionally, operators also should note that, this proposed AD would require, removal of excess sealant in the remaining area between stringers S–27L and S–27R, prior to further flight, upon completion of the aft wheel well bulkhead modification. The alert service bulletin recommends that the excess sealant be removed prior to the threshold specified for fatigue inspections in Section 9 of the Maintenance Planning Document (MPD). In developing the appropriate compliance time, the FAA considered the manufacturer's recommendation and the degree of urgency associated with addressing the subject unsafe condition. In light of these factors, the FAA finds that the compliance time specified by this proposed AD to be appropriate.

Cost Impact

There are approximately 109 airplanes of the affected design in the worldwide fleet. The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD.

For all airplanes, it would take approximately 2 work hours per airplane to accomplish the general visual and HFEC inspections at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the these inspections proposed by this AD on U.S. operators is estimated to be $120 per airplane.

For all airplanes, it would take approximately 28 work hours per airplane to accomplish the proposed modification at an average labor rate of $60 per work hour. Required parts would be approximately $6,013 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $7,693 per airplane.

For certain airplanes, it would take 3 work hours per airplane to accomplish the proposed inspection to detect excess sealant at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the this inspection proposed by this AD on U.S. operators is estimated to be $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–307–AD.

Applicability: Model 777–200 series airplanes having line numbers 1 through 144; 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 fatigue cracking of the aft wheel well bulkhead, which could result in rapid in-flight decompression of the airplane, accomplish the following:

General Visual Inspection

(a) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice of the aft wheel well bulkhead, in accordance with Part I of the Accomplishment Instructions of the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If no excess sealant is detected, no further action is required by this paragraph.

(2) If any excess sealant is detected, prior to further flight, remove the excess sealant from the aft wheel well bulkhead area in accordance with the alert service bulletin.

Inspections/Modification

(b) For Groups 1 and 2 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect cracking of the adjacent structure of the aft wheel well bulkhead and perform a one-time high frequency eddy current (HFEC) inspection to detect cracking of the fastener holes in the web, side fitting, and outer chord of the aft wheel well bulkhead, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(1) If no cracking is detected during the general visual and HFEC inspections, prior to further flight, modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(2) If any cracking is detected during the general visual inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(3) If any cracking is detected during the one-time HFEC inspection, prior to further flight, remove additional fasteners, and perform a second HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(i) If no cracking is detected during the second HFEC inspection, prior to further flight, oversize all the holes to the diameter specified in the alert service bulletin, and perform a third HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(A) If no cracking is detected during the third HFEC inspection, prior to further flight, replace the fasteners with new fasteners and modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(B) If any cracking is detected during the third HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(ii) If any cracking is detected during the second HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(c) For airplanes on which cracking has been detected during any inspection required by paragraph (b)(2), (b)(3)(i)(B), or (b)(3)(ii), prior to further flight, repair in accordance with a method approved by the Manager, Seattle Airplane Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(d) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, on which excess sealant was detected and removed in accordance with paragraph (a) of this AD: Prior to further flight following the accomplishment of the modification required by paragraph (b) of this AD, remove any excess sealant in the remaining area of the lower lobe of the aft wheel well bulkhead between stringers S–27L and S–27R, in accordance with the alert service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30798 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–ZA01

Proposed Revision of the Commission's Procedure for the Review of Contract Market Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: As part of an ongoing program of regulatory reform, the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is proposing to revise its procedures for the review of contract market rules and rule amendments. Subject to stated conditions, the proposed rulemaking would permit contract markets to place new rules and rule amendments into effect on the business day following their submission to and receipt by the Commission.

DATES: Comments must be received on or before Janaury 25, 2000.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION

I. Statutory and Regulatory Background

Section 5a(a)(12)(A) of the Commodity Exchange Act (''Act'') provides, among other things, that all rules [1] of a contract market that relate to terms and conditions [2] in futures or option contracts traded on or subject to the rules of a contract market must be submitted to the Commission for its prior approval. Section 5a(a)(12)(A) further requires that contract markets submit all other rules to the Commission for prior review. Other sections of the Act require rules addressing specified matters to be explicitly approved by the Commission.[3]

Pursuant to Section 5a(a)(12)(A), the Commission adopted Regulation 1.41 which sets forth procedures for the submission and review of proposed contract market rules. These procedures vary depending on the type of rule that the contract market seeks to implement. Paragraph (b) of Regulation 1.41 establishes review procedures for rules that relate to terms and conditions of a contract. Paragraph (c) of the regulation establishes review procedures for most rules that do not relate to terms and conditions.[4] Commission Regulation 1.41 also contains procedures for the filing of other types of exchange rules that may be implemented before or simultaneous to filing with the Commission. These include, among others, rules that are exempt from the requirements of Section 5a(a)(12)(A) of the Act (Regulation 1.41(d)), temporary emergency rules (Regulation 1.41(f)), and physical emergency rules (Regulation 1.41(g)).

Section 4(c) of the Act provides that ''[i]n order to promote responsible economic or financial innovation and fair competition,'' the Commission may exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to Section 4(a) of the Act [5] from any of the requirements of that provision or from any other provision of the Act except Section 2(a)(1)(B). The Commission may not grant such an exemption unless it determines that the agreement, contract, or transaction would be consistent with the public interest.

Pursuant to this authority, the Commission is proposing to exempt contract markets from the rule review requirements of Section 5a(a)(12)(A) of the Act and from the regulations adopted thereunder. The Commission would continue to pursue vigorously its surveillance and enforcement activities. The Commission intends that this proposed rulemaking, and the manner in which the Commission would conduct oversight of contract market rules adopted pursuant to such a provision, should ''promote responsible economic or financial innovation and fair competition.''

II. The Proposed Amendments

A. Description of the Procedure

Proposed Commission Regulation 1.41(z) would permit contract markets [6] to place a new rule into effect the business day after the Commission has received submission of the rule. There would be no requirement, as under current regulations, to allow for prior Commission review of the rule. The submission would have to include a brief explanation of the rule and a description of any substantive opposing views expressed by members of the contract market or others with respect to the rule. In addition, the contract market would be required to certify that the rule submitted neither violates nor is inconsistent with any provision of the Act or the Commission's regulations. Although the form and content requirements for Regulation 1.41(z) rule filings would be more abbreviated than those for rule filings pursuant to Regulations 1.41(b) or 1.41(c), the Commission would retain its authority under Section 4(d) of the Act and other relevant provisions to conduct investigations, to gather information, and generally to oversee the contract market's adherence with the requirements and conditions of the Act.

B. Eligibility for the Procedure

1. Previous Designation as a Contract Market

In a companion **Federal Register** release (the ''Companion Release''), the Commission is adopting today a new Regulation 5.3 that establishes a similar streamlined procedure for the listing of contracts, and their subsequent amendment, without Commission prior review and approval.[7] That procedure will be available solely to boards of trade that are designated as contract markets in at least one contract that is not dormant.[8] In its comment letter on that proposal, the Chicago Mercantile Exchange supported this provision,

[1] Commission Regulation 1.41(a)(1) defines ''rule'' of a contract market to mean ''any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof.''

[2] Commission Regulation 1.41(a)(2) defines ''terms and conditions'' to mean ''any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract.''

[3] For example, Section 4f(b) of the Act requires that contract markets must receive Commission approval for any minimum financial standards that they establish for futures commission merchants and introducing brokers.

[4] In **Federal Register** releases published on March 7, 1997, (62 FR 10434 and 62 FR 10427), the Commission adopted amendments to streamline and to expedite the procedures contained in Regulations 1.41 (b) and (c). Those amendments established alternative procedures that shortened the Commission's timeframe for reviewing contract market rules. Under these ''fast track'' review procedures, rule changes generally can be deemed approved, or permitted to be put into effect without Commission approval, ten days after Commission receipt, unless the Commission takes action to commence review of the rule for a 45-day period (or 75-day period in the case of rules published for comment in the **Federal Register**). The rules of certain non-cash settled contracts may be deemed approved forty-five days after receipt by the Commission.

[5] Among other things, Section 4(a) of the Act prohibits any person from executing, confirming the execution of, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery, unless such transaction is conducted subject to the rules of a board of trade which has been designed by the Commission as a contract market for such commodity.

[6] For the purposes of Regulation 1.41, the term ''contract market'' includes a clearing organization that clears futures contract transactions. Regulation 1.41(a)(3).

[7] The new designation procedure was proposed on July 20, 1999. 64 FR 40528 (July 27, 1999).

[8] *See* Commission Regulation 5.2.

noting that start-up exchanges are not appropriate for this procedure, as ''the initial designation of a board of trade as a contract market entails a more lengthy review and analysis of its trading and clearing systems and its self-regulatory programs.'' The Commission believes that this rationale is equally applicable to the review of rules from inactive contract markets. Accordingly, the Commission is proposing to make the Regulation 1.41(z) process available solely to contract markets which are designated in at least one non-dormant contract.

2. Consistency with the Act and the Commission Regulations

A contract market would be required to submit a certification that the rule being implemented neither violated nor was inconsistent with any provision of the Act or the Commission regulations. This is the standard used by the Commission in determining whether to disapprove a rule.[9] Thus, the Regulation 1.41(z) procedure would not be available for contract market rules that, in the absence of some type of Commission exemption, would violate, or be inconsistent with the Act or the Commission regulations. For example, under Regulation 1.38(a), transactions are required to be executed in an open and competitive manner. Regulation 1.38(a), however, also permits exchanges to adopt rules for the execution of non-competitive transactions so long as such rules are submitted to and approved by the Commission. Thus, Regulation 1.38(a) reserves to the Commission the authority to determine what types of trading procedures need not meet the open and competitive requirement. Accordingly, non-competitive trading rules, such as certain block trading procedures, would not qualify for the Regulation 1.41(z) process because, absent affirmative Commission approval under Regulation 1.38, they would violate a provision of the regulations.

C. Legal Certainty

In the Companion Release, the Commission is adopting a provision that makes clear that, among other things, contracts listed pursuant to Rule 5.3 are not void or voidable in the event the Commission initiates a proceeding to disapprove, to alter, to amend, or to require a contract market to adopt a specific trading rule or procedure or to refrain from taking a specific action. The Commission is including a similar provision in proposed Regulation 1.41(z)(2) to ensure legal certainty for transactions effected subject to rules implemented pursuant to Regulation 1.41(z). Although the Commission would not approve, affirmatively allow into effect, or deem approved any contract market rules that were implemented pursuant to this proposed rulemaking, Regulation 1.41(z)(3) would expressly state that the submitting contract market would not be exempt from any provision of the Act or the Commission's regulations other than the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations. Therefore, for example, contract markets implementing rules pursuant to Regulation 1.41(z) would continue to be subject to the rule enforcement obligations of Section 5a(a)(8) of the Act.

III. Request for Comments

The Commission is requesting comment on any aspect of the proposed procedure, including, but not limited to, the following.

A. Exclusivity of Regulation 14.1(z) Process

Under the current rule review process of Regulation 1.41(b), rules relating to terms and conditions must be submitted for Commission approval. Rules that do not relate to terms and conditions must be submitted for Commission review pursuant to other provisions of Regulation 1.41. Unless the Commission determines otherwise, such rules may be deemed approved or placed into effect, as appropriate.

Contract markets on occasion specifically request that the Commission approve a rule that otherwise did not require Commission approval under any provision of the Act or the Commission Regulations. Contract markets rules processed under Regulation 1.41(z) would simply be placed into effect and would not be considered to have been ''approved'' by the Commission. The Commission is proposing the Regulation 1.41(z) procedure as an alternative to the existing Regulation 1.41 process. Under this proposal, contract markets could still submit a rule pursuant to Regulation 1.41(b) or 1.41(c), even if that rule qualified for the Regulation 1.41(z) process. However, the existence of these various rule review procedures may create confusion for market participants with respect to the regulatory history of rules and may lead to the inaccurate impression that rules adopted pursuant to Regulation 1.41(z) or 5.3 have been reviewed by the Commission.[10]

As a means of avoiding this possible confusion, the Commission requests comment on whether it should preserve the current approval process for rules that would qualify for the Regulation 1.41(z) process or whether the proposed Regulation 1.41(z) process should be the only process available. Similarly, should the Commission make the Regulation 5.3 procedure adopted today the sole means of listing new contracts and of amending their terms and conditions?

B. Suspension of Effectiveness of a Rule

The Act requires notice and opportunity for hearing before a rule may be disapproved or altered. This process can be lengthy. Market participants and others adversely affected by a rule change could incur harm during this period. The Commission requests comment on whether it should reserve the authority, under Regulation 1.41(z), to stay or to suspend the operation of an exchange rule once it has initiated a proceeding under Section 5a(a)(10), 5a(a)(12), 8a(7) or 8a(9) of the Act.

C. Contracts with Open Interest

The Commission is requesting comment on whether the Regulation 1.41(z) process should be available for rule amendments relating to contracts that have open interest at the time the rule is implemented. Could the rights of such position holders be impacted by a rule change affecting their contracts? How could the Commission and/or a contract market ensure that traders are not harmed by the adoption of a rule amendment for a contract with open positions?

D. Emergency Rules

In Section 5a(a)(12)(B) of the Act, Congress mandated that the Commission create a special process for the implementation of contract market rules on an emergency basis without Commission approval. Section 5a(a)(12)(B) was adopted in the *Futures Trading Practices Act of 1992.* The legislative history for this provision indicates that ''the Committee [on Agriculture] was concerned that the Commission might not be actively engaged in decisions by exchanges to invoke their emergency powers.''[11] The Commission notes that proposed

[9] *See* Standard to be Applied by the Commission in Disapproving Contract Market Rules. 45 FR 34873 (May 23, 1980).

[10] So, for example, rules that were adopted pursuant to Regulation 1.41(z) or 5.3 would not have been reviewed by the Commission for possible antitrust implications.

[11] *See* Reported No. 101–236 to accompany H.R. 2869, 101st Cong., 1st Sess. at 20.

Regulation 1.41(z) may obviate the need for a contract market to follow Section 5a(a)(12)(B), and its implementing regulatory provision, Regulation 1.41(f), when adopting emergency rules. The Commission requests comment on how to differentiate an emergency rule provision from any other rule that could be adopted pursuant to proposed Regulation 1.41(z).

E. New Electronic Trading Systems

As noted, the Regulation 1.41(z) process would not be available to a board of trade that is not designated as a contract market in at least one non-dormant contract. The implementation of a new electronic trading system and adoption of related rules could be viewed as being analogous to the organization of a new exchange in many respects. The Commission requests comment on whether proposed rules implementing a new electronic trading system at an existing contract market should be processed under for Regulation 1.41(z).

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). This rulemaking establishes streamlined procedures for the review of contract market rules and rule amendments. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Agency Information Activites: Proposed Collection; Comment Request

Proposed Regulation 1.41(z) contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission has submitted a copy of this section to the Office of Management and Budget (''OMB'') for its review.

Collection of Information: Rules Pertaining to Contract Markets and Their Members, OMB Control Number 3038–0022.

The effect of the proposed Regulation 1.41(z) will be to reduce the burden previously approved by OMB for Regulations 1.41(b) and (c) by 4290 hours because the predominant number of rule submissions will be made pursuant to new proposed Regulation 1.41(z) instead of either Regulation 1.41(b) or (c). The burden associated with the proposed new Regulation 141(z) is estimated to be 858 hours which will result from compliance with the requirements for information required for Regulation 1.41(z) submissions.

The estimated burden of new Regulation 1.41(z) was calculated as follows:

Number of respondents: 11.

Annual responses by each respondent: 26.

Total annual responses: 286.

Estimated average hours per response: 3.

Annual Reporting Burden: 858 hours.

The revised estimated burden of Regulations 1.41(b) and (c) (which was 4,125 hours and 825 hours, respectively) is:

Regulation 1.41(b).

Number of respondents: 11.

Annual responses by each respondent: 2.

Total annual responses: 22.

Estimated average hours per response: 25.

Annual Reporting burden: 550 hours.

Regulation 1.41(c).

Number of respondents: 11.

Annual responses by each respondent: 2.

Total annual responses: 22.

Estimated average hours per response: 5.

Annual Reporting burden: 110.

The burden associated with the entire collection (3038–0022) including this proposed rule is as follows:

Number of respondents: 15,893.

Number of responses per year: 434,052.

Estimated average hours per response: 1.8095.

Annual Reporting Burden: 785,443 hours.

This annual reporting burden of 785,443 hours represents a reduction of 3,432 hours as a result of proposed new Regulation 1.41(z).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 1

Brokers, Commodity exchanges, Commodity futures, Contract markets, Reporting and recordkeeping requirements, Rule review procedures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT 1

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6I, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, unless stated otherwise.

2. Section 1.41 is amended by adding a paragraph (z) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(z) Exemption from the rule review procedure requirements of Section 5a(a)(12) of the Act and related regulations. (1) Notwithstanding the rule filing requirements of Section 5a(a)(12) of the Act and related Commission regulations, a contract market may place a rule into effect without prior Commission review or approval provided that:

(i) The contract market has filed a submission for the rule, and the Commission has received the submission at its Washington, D.C. headquarters and at the regional office having jurisdiction over the contract market by close of business on the business day preceding implementation of the rule;

(ii) The contract market is designated in, or clears, at least one commodity contract, under Sections 4c, 5, 5a(a) and 6 of the Act, which is not dormant within the meaning of § 5.2 of part 5 of the Commission's regulations; and

(iii) The rule submission includes:

(A) The text of the rule (in the case of a rule amendment, brackets must indicate words deleted and underscoring must indicate words added);

(B) A brief explanation of the rule;

(C) A description of any substantive opposing views expressed by members of the contract market or others with respect to the rule; and

(D) A certification by the contract market that the rule neither violates nor is inconsistent with any provision of the Act or of the regulations thereunder.

(2) A transaction effected subject to a rule implemented under this paragraph shall not be void or voidable as a result of:

(i) A violation by the contract market of the provisions of this section; or

(ii) The initiation, conduct or disposition of any Commission proceeding to disapprove the rule or require the contract market to revise the rule.

(3) This paragraph does not exempt contract markets from any provision of the Act or the Commission's regulations, except for the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations.

Issued in Washington, DC on November 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30512 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

RIN 3038–ZA00

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has established fees for certain program services, including applications for contract market designation. The Commission is proposing to eliminate its fees for futures and option contract market designation applications.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: Paul Architzel, Chief Counsel, Division of Economic Analysis , Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. 202–418–5160.

SUPPLEMENTARY INFORMATION:

Background Information

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation for futures and option contracts.[1] The fees for contract market designations represent the average of the most recent three-years' actual costs incurred for each of that activity. The Commission first established a fee for contract market designations on August 23, 1983. The fee was based upon a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period of time.

In 1992, the Commission revised its fee structure by establishing three separate fees—one for futures alone; one for options alone; and one for combined futures and option contract applications. (57 FR 1372, (January 14, 1992)).[2] On June 8, 1999, the Commission further modified its fee structure for a limited class of designation applications submitted simultaneously where each proposed contract in the filing is: (i) Cash settled based on an index of non-tangible commodities; (ii) the cash-settlement procedure is the same for all contracts in the filing; and (iii) all other terms and conditions of the contracts are the same in all respects except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract. (64 FR 30384, June 8, 1999).[3]

II. Recent Revisions to the Designation Process

In a companion notice published elsewhere in this edition of the **Federal Register**, the Commission is adopting a final rule 5.3 that would permit exchanges to list contracts for trading without Commission approval. This is in response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness.

As explained in the notice of final rulemaking, boards of trade will be permitted to list contracts for trading based only upon their certification that the contract meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder and that they comply with the other provisions of the rule. The exchange certification procedure for listing new contracts is in lieu of the otherwise required application for contract market designation. Under the rule, contracts may be listed for trading indefinitely in reliance upon the exchange's certification.

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

[2] The combined futures/option designation application fee was set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option was even lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

[3] The fees for designation applications currently in effect are as follows:

- Futures contracts alone—$6,800
- Option contracts alone—$1,200
- Futures contracts with options—$7,500

The reduced fees for simultaneous submission of multiple cash-settled contracts are as follows:

- for filings involving multiple cash-settled futures—$6,800 for the first contract plus $680 for each additional contract;
- for filings involving multiple options on cash-settled futures — $1,200 for the first contract plus $120 for each additional contract; and
- for filings involving multiple combined cash-settled futures and options on those futures—$7,500 for the first futures and option contract plus $750 for each additional futures and option contract.

III. Proposed Amendments to the Designation Fees

The Commission is proposing to eliminate fees for contract market designation applications. Otherwise there would be an economic disincentive to submit proposed contracts for Commission approval under the existing designation procedures. As greater experience is gained with the use of the exchange certification listing procedures of Rule 5.3, the Commission may revisit this issue.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq*, requires agencies to consider the impact of rules on small businesses. The fees involved in this release affect contract markets (also referred to as ''exchanges'') and registered futures associations. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*, 47 FR 18618 (April 30, 1982), and the requirements of the Regulatory Flexibility Act therefore do not apply. Accordingly, the Chairman, on behalf of the Commission, certifies that the proposed rule does not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on November 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30511 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 219

RIN 3220–AB43

Evidence Required for Payment

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (RRB) hereby proposes to amend its regulations to permit the use of noncertified copies and facsimile copies of records or documents needed to establish eligibility for benefits under the Railroad Retirement Act. These amendments will make it easier for individuals to apply for benefits under the Act.

DATES: Comments must be received on or before January 25, 2000.

ADDRESSES: Comments should be submitted to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, (312) 751–4513, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: In order to receive benefits under the Railroad Retirement Act an individual may be required to provide proof of age, marriage, divorce, or death. Section 219.6 of the Board's regulations generally requires that where a claimant must provide a record or document to establish an eligibility requirement, the original or a certified copy of such document or record must be provided. This requirement has proven burdensome for claimants. Many claimants now wish to transmit their documentary evidence electronically by use of telefax devices. Consequently, the Board proposes to amend its regulations to permit the use of uncertified copies and facsimiles of certain official records when the official custodian of such records transmits the facsimile directly to an office of the Board and the source of the transmittal is clearly identified on the facsimile. In addition, the Board proposes to permit Board employees to certify translations of foreign documents.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 219

Pensions, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend chapter II of title 20 of the Code of Federal Regulations as follows:

PART 219—EVIDENCE REQUIRED FOR PAYMENT

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. In § 219.6 the section heading and paragraphs (a) and (b) are revised, and a new paragraph (d) is added to read as follows:

§ 219.6 Records as evidence.

(a) *General.* If a claimant or an annuitant provides an original document or record as evidence to prove eligibility or continued entitlement to payments, where possible, a Board employee will make a photocopy or transcript of these original documents or records and return the original documents to the person who furnished them. A claimant may also submit certified copies of original records as described in paragraph (c) of this section. The Board may also accept uncertified copies as described in paragraph (d) of this section.

(b) *Foreign-language documents.* If the evidence submitted is a foreign-language document, the Board may require that the record be translated. An acceptable translation includes, but is not limited to, a translation certified by a United States consular official or employee of the Department of State authorized to certify evidence, or by an employee of the Board or the Social Security Administration.

* * * * *

(d) *Uncertified copies and facsimiles.* In lieu of certified paper copies of records or extracts from such official sources as listed in paragraph (c) of this section, the Board will accept facsimile copies of such records or extracts when the official custodian of such records transmits the facsimile directly to an office of the Board and the source of the transmittal is clearly identified on the facsimile.

Dated: November 18, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30793 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

RIN 1512–AA07

[Notice No. 886; Re: Notice No. 882]

Extension of the Comment Period of the Proposed Diamond Mountain Viticultural Area (99R–223P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 882, published in the **Federal Register** on September 29, 1999, regarding the establishment of the Diamond Mountain viticultural area. ATF has received a request to extend the comment period in order to provide sufficient time for all

interested parties to respond to the notice.

DATES: Written comments must be received by January 25, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 882).

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington DC, 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1999, ATF published a notice of proposed rulemaking in the **Federal Register** soliciting comments from the public and industry. The notice proposed to establish the Diamond Mountain viticultural area in Napa County, California. The comment period for Notice No. 882 closes on November 29, 1999.

However, ATF received a request from Diamond Mountain Vineyard, a winery in Calistoga, California, to extend the comment period an additional 60 days. Diamond Mountain Vineyard is located within both Napa and Sonoma Counties, partially within the proposed boundaries of the Diamond Mountain viticultural area. According to the winery, it had been unable to get timely and complete information on the specifics of the proposal and therefore it needs additional time to prepare its comments.

In consideration of the above, ATF finds that an extension of the comment period is warranted and is extending the comment period until January 28, 2000.

Disclosure

Copies of Notice 882 and written comments will be available for public inspection during normal business hours at: ATF Reference Library, Liaison and Public Information, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information: The author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

This notice extending the comment period for the Diamond Mountain viticultural area is issued under the authority of 27 U.S.C. 205.

Signed: November 22, 1999.

John W. Magaw,

Director.

[FR Doc. 99–30745 Filed 11–24–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–99–023]

RIN 2115–AF93

Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones around seven high-production, manned oil and natural gas platforms in the Outer Continental Shelf in the Gulf of Mexico. The seven platforms need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around the platforms will significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: An attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth District Commander. The proposed safety zones are necessary to protect the safety of life, property and environment.

DATES: Comments must be received on or before January 25, 2000.

ADDRESSES: Comments can be mailed to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or may be delivered to Room 1341 at the same address between 8 A.M. and 3:30 P.M., Monday through Friday, except federal holidays. The telephone number is (504) 589–6271. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: LCDR Roderick Walker, Project Manager for Eighth District Commander, telephone (504) 589–3043.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–99–023), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Shell Offshore, Inc. requested that the Coast Guard establish safety zones around the following Shell platforms in the Gulf of Mexico: Boxer located at position 27–56–48N, 90–59–48W; Bullwinkle Platform located at position 27–53–01N, 90–54–04W; Ursa Tension Leg Platform (Ursa TLP) located at position 28–09–14.497N, 89–06–12.790W; West Delta 143 Platform located at position 28–39–42N, 89–33–05W; Mars Tension Leg Platform (Mars TLP) located at position 28–10–10.290N, 89–13–22.35W with two supply boat mooring buoys at positions 28–10–18.12N, 89–12–52.08W (Northeast) and 28–9–49.62N, 89–12–57.48W (Southeast); Ram-Powell Tension Leg Platform (Ram-Powell TLP) located at position 29–03–52.2N, 88–05–30W with two supply boat mooring buoys at positions 29–03–52.2N, 88–05–12.6W (Northeast) and 29–03–28.2N, 88–05–10.2W (Southeast); and Auger Tension Leg Platform (Auger TLP) located at position 27–32–45.4N, 92–26–35.09W with two supply boat mooring buoys at positions 27–32–38.1N, 92–26–.048W (East Buoy) and 27–32–58.14N, 92–27–4.92W (West Buoy).

The request for the safety zones was made due to the high level of shipping activity around the platforms and the

safety concerns for both the personnel aboard the platforms and the environment. Shell Offshore, Inc. indicated that the location, production level and personnel levels on board the seven platforms make it highly likely that any allision with the platforms would result in a catastrophic event. The seven platforms are high production oil and gas drilling platforms producing from 100,000 to 250,000 Barrels of oil per day. All are manned with crews ranging from approximately 130 to 156 people. Each of the platforms is also near the edge of a shipping safety fairway or fairway intersection.

The safety zones established by this regulation are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area. The oil producing platforms covered by this regulation are also located in close proximity to the fairways.

The Coast Guard has reviewed Shell Offshore Inc.'s concerns and agrees that the risk of allision to the platforms and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The proposed regulation would significantly reduce the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property and the environment in the Gulf of Mexico.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under Executive Order 12866 and is not significant under the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation in unnecessary. The impacts on routine navigation are expected to be minimal.

Collection of Information

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

Federalism Assessment

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132 and has determined that it does not have federalism implications under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.C this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small business and not-for-profit organizations that are independently owned and operated, are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Since alternate routes are available for the small number of vessels to be affected by this proposed regulation, the Coast Guard expects the impact of this regulation on small entities to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

List of Subjects in 33 CFR Part 147

Marine safety, Navigation (water), Outer Continental Shelf.

Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 147 of title 33, Code of Federal Regulations as follows:

PART 147—[AMENDED]

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and 49 CFR 1.46

§ 147.1101 [Redesignated as § 147.20]

2. Section 147.1101 is redesignated § 147.20.

3. New § 147.801 through § 147.813 are added to read as follows:

§ 147.801 BOXER Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East-West Gulf of Mexico Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.803 BULLWINKLE Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.805 URSA TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.807 WEST DELTA 143 Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent Mississippi River Approach Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.809 MARS TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.811 RAM-POWELL TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.813 AUGER TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and an area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing or fishing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: November 12, 1999.

Paul J. Pluta,

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

[FR Doc. 99–30739 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–15–U

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. IM2000–1; Order No. 1270]

International Mail Report

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed international mail rulemaking.

SUMMARY: This document announces a new docket to develop permanent rules related to the analysis of cost, revenue and volume data generated by the Postal Service's various international mail services. It also reviews responses to previous orders on this issue, sets forth a proposed rule, and invites public comment. Adoption of permanent rules will assist the Commission in preparing annual reports to Congress, as required by law.

DATES: Submit initial comments on or before December 27, 1999. Submit reply comments on or before January 10, 2000.

ADDRESSES: Send comments to Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H St. NW., Suite 300, Washington, DC 20268–0001.

FOR MORE INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H St. NW., Washington, DC 20268–0001 at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 26, 1999, Commission Order No. 1226 in Docket No. IM99–1 was published in the **Federal Register** (64 FR 3991). Comments received in response to that order are discussed in the preamble. On June 30, 1999, the Commission issued its initial annual report to the Congress on international mail costs, revenues, and volumes. That report, and a series of orders related to its issuance, are also discussed in the preamble.

Background

On October 21, 1998, Public Law 105–277 was signed into law, adding section 3663 to the Postal Reorganization Act [39 U.S.C. 3663]. It requires that by July 1 of each year, the Commission ''transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes'' accrued by the Postal Service ''in connection with mail matter conveyed between the United States and other countries'' for the prior fiscal year. To enable the Commission to carry out that directive, section 3663 requires the Postal Service to provide, by March 15, ''such data as the Commission may require'' to prepare that report. It states that the data provided ''shall be in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for analysis of rates for domestic mail.''

Initial United Parcel Service Petition for Rulemaking

On December 16, 1998, United Parcel Service (UPS) asked the Commission to institute a rulemaking in order to determine ''(1) the data to be provided to the Commission by the United States Postal Service and (2) the methods to be used by the Commission in analyzing the costs, revenues, and volumes of each international mail product'' to prepare the report required by section 3663. Petition of UPS to Institute Rulemaking Proceeding to Study International Costs and Revenues, filed December 16, 1998, at 3.

In support of its petition, UPS asserted that it has a vital interest in ensuring that the Postal Service's international products with which it competes are not subsidized by other Postal Service offerings. It observed that analyzing the costs, volumes, and revenues of international mail is a new responsibility for the Commission, and argued that in deciding what data and what methods to use, the Commission is

likely to benefit from the input of interests affected by international mail.

Commission Response

The Commission declined to institute the rulemaking that UPS requested, concluding that there was too little time to complete traditional rulemaking procedures before the March 15 deadline specified in the statute for obtaining international mail data from the Postal Service. The Commission observed, however, that section 3663 contemplates an ongoing responsibility of the Commission to analyze international mail costs and revenues, and, therefore, it may be appropriate to adopt permanent rules concerning data that the Postal Service should provide to enable the Commission to carry out this responsibility. *See* order no. 1226 at 2.

In order no. 1226, the Commission informally solicited comments from the public concerning what data the Postal Service should provide to enable the Commission to prepare the report required by section 3663, and what level of detail would be appropriate for reporting the costs, revenues, and volumes of international mail services. Id. at 3. The order concluded that the data on which the report is based should consist, at a minimum, of the International Cost and Revenue Analysis (ICRA), and the international equivalent of the Cost Segments and Components (CSC) report that is provided for domestic mail. Id. at 3. The Commission included in this order a proposed list of some 20 outbound and three inbound international postal services for which financial data would be separately analyzed and reported.

Summary of Comments

The comments received reflected a wide range of views. The Advertising Mail Marketing Association (AMMA) argued that international rates are not neatly aligned with economic costs and demand and, therefore, analyzing the cost coverages of individual international services serves little purpose. AMMA contended that international rate groups are often misaligned with economic costs because UPU classifications are overbroad, and terminal dues and other charges set by international agreement have arbitrary elements. AMMA Comments at 1–2 (January 29, 1999). AMMA argued that financial data for individual outbound services cannot be meaningfully combined with data for related inbound services. Id. at 3. It also argued that there is no non-arbitrary way to disaggregate transportation costs or terminal dues to the rate category level for outbound services. Id. at 4. Because the costs, revenues, and volumes of international mail can be meaningfully analyzed only in the aggregate, AMMA contended, that is all section 3663 requires. AMMA argued that no new data are needed to perform such an analysis.

UPS. UPS argued that the purpose of section 3663 is to assure the Postal Service's competitors and the public that the Postal Service's international mail services are covering their costs and making a reasonable contribution to overhead. To accomplish that purpose, it argued, the Postal Service should do the following: describe its international costing systems and methods and provide the relevant handbooks; attribute to each service the costs of accounting, advertising, electronic customs clearance, and private delivery contractors (UPS Comments at 4 (January 29, 1999)); disaggregate financial data to the rate category level for services that have relatively large volumes or face intense competition, such as IPAS and Global Priority Mail (id. at 2–3); and provide financial data for individual services for outbound and inbound flows combined, by country pair (id. at 5).

Federal Express (FedEx) argued that the costs of international mail vary radically by global region and by terminal dues regime, and that the characteristics of mail vary by destination. Therefore, it argued, financial data should be analyzed and reported for the seventy-plus categories of international service to which a separate tariff applies. FedEx Comments at 3 and Appendix A (February 1, 1999). It recognized cost data cannot be reliably disaggregated for some of these categories, but argued that allocations should be made on the basis of pieces and/or weight, in order to evaluate the adequacy of the rate charged. FedEx Reply Comments at 2–3 (February 8, 1999). It argued that, at a minimum, financial data should be separately reported for services to Canada and Mexico. FedEx Comments at 6. FedEx contended that the combined costs of outward and inward mail flows for specific international services must be reported, because terminal dues do not reflect the economic value of inbound delivery. Id. at 7–8. It also urged that historical financial data be provided so that any anomalies in the data can be identified. It also urged the Commission to analyze and report all costs that are incurred by international mail as a whole, even if they cannot be attributed to individual services. Id. at 9.

Office of the Consumer Advocate (OCA). The comments of the OCA described the regulatory and legislative background that it believes led to the adoption of section 3663. It cited the fears of the competitors of the Postal Service's international mail services that the Postal Service is subsidizing its international mail services from revenues generated by its monopoly products. The OCA argued that the legislative purpose underlying section 3663 was to allay those fears by making public all financial data relevant to the Postal Service's international mail services. The OCA argued that the Postal Service should be required to provide all of the fiscal year (FY) 1998 financial data generated by its ongoing international mail data collection systems, and, in addition, special information and reports that indicate that there are international mail services that do not cover their costs. These, it said, include the information that the Postal Service furnished to the Postal Service's Inspector General and to the General Accounting Office (GAO) to support their recent investigations of international mail—the Inspector General's report itself and the Postal Service's 1998 marketing plans for international mail. OCA Comments at 7–16 (January 29,1999).

Postal Service. While it ''basically agrees'' with AMMA's position, the Postal Service did not oppose many of the recommendations that it provide more detailed data on international mail. Postal Service Comments at 4 (January 29, 1999). The Postal Service argued that Air M-bags, Valuepost/Canada, and Bulk Letter Service to Canada, are minor variants of Air AO, Surface AO, and Air LC, respectively, and therefore should be analyzed and reported as part of those broader services. It observed that financial data about these services are country-specific, and should not be publicly reported for that reason as well. Id. at 2–3. It argued that data on post cards, postal cards, and aerograms should be combined because their cost and market characteristics are similar, and their volumes are too low to yield reliable data separately. Id. at 4.

The Postal Service noted the parcel companies' argument that cost coverages should be separately analyzed for rate categories within subclasses, such as those within International Priority Airmail (IPA) and Global Priority Mail. It responded that the statistical sample representing IPA and Global Priority Mail is too small to be further separated into its constituent rate categories and still yield reliable results. It asserted that it does not collect costs separately for the rate categories within IPA. Id. at 7–8.

Commission response. The Commission considered these comments in formulating its list of initial data requirements in order no. 1228. The Commission concluded that section 3663 appeared to contemplate that international services would be separately analyzed and reported on much the same basis that the Commission uses to analyze costs and cost coverages for domestic mail. Consistent with that conclusion, the Commission asked the Postal Service to describe how it designs rates for its international services, and to provide financial data separately for each international service for which it sets rates by marking up the costs that it separately attributes to that service. Order No. 1228 at 6–7. The Commission tentatively concluded that the arguments for combining outbound with analogous inbound services before analyzing and reporting their attributable costs and cost coverages were not persuasive. Id. at 8. The Commission issued a series of six notices of data requirements asking the Postal Service to supplement or clarify its responses to order no. 1228.

Initial Commission Report

The Commission's initial section 3663 report. The Commission issued its first report under section 3663 on June 30, 1999. It was based primarily on information contained in the ICRA and on the supporting information provided in response to order nos. 1228 and 1236. The main body of the report presented costs, volumes, revenues, and cost coverages separately for fourteen outbound services and seven inbound services. For FY 1998 it showed an overall cost coverage for international mail of 112.9 percent, reflecting a cost coverage for outbound international mail of 130.6 percent, and a cost coverage for inbound international mail of 98.2 percent. Within outbound international mail, the cost coverage for air and for surface services was 152.6 and 96.4 percent, respectively. The collective cost coverage for the outbound ''initiatives'' was 86.8 percent. Appendix E further disaggregated these service-specific costs, volumes, revenues, and cost coverages by terminal dues regime. This had the incidental effect of isolating these data by a geographic region (the European bilaterals) and two countries (Canada and Mexico).

The cost coverages for outbound air services and for international services overall were significantly increased when the Postal Service revised its method of estimating international air costs. The cost coverage for international mail overall was further increased when the Postal Service eliminated the so-called ''settlement difference.'' The Postal Service submitted its FY 1998 ICRA–USPS version on June 7, 1999 containing these revised cost estimation methods. Because there was not sufficient time for the Commission to fully evaluate these revised methods before its July 1 reporting deadline, the Commission presented financial data based on these revisions in Appendix F.

The Commission's report evaluated the accuracy and reliability of the financial data provided by the Postal Service, and provided estimates of their statistical precision. The Commission concluded that its outbound international volume and revenue data is quite reliable, in part because the Postal Service collects a substantial amount of census data on international mail, and has sample data from multiple collection systems to serve as control numbers. Its inbound volume and revenue is reliable as well, with some possible exceptions noted in the report. The report provides coefficients of variation for the volumes and unit attributable costs of the Postal Service's individual international services. The report concludes that except for several inbound services, statistically significant conclusions about the cost coverages of individual international services can be drawn.

Congressional Request for Additional Information

On August 3, 1999, Representative John McHugh, chairman of the Subcommittee on the Postal Service of the Committee on Government Reform of the U.S. House of Representatives, submitted requests for additional information to the Commission prompted by its first section 3663 report. Among the additional information requested was a revised Appendix E showing combined data for outbound and inbound mail flows by international service. Representative McHugh also requested that the Commission estimate the difference between terminal dues revenue received by the Postal Service for delivering inbound mail and the revenues that the Postal Service would have collected from comparable domestic mail, calculated separately for mail received from Canada, the European bilateral group, and other Universal Postal Union industrialized countries. The Commission provided responses on September 29, 1999.

Public Disclosure

Controversy arose early in the reporting process over the commercial sensitivity of the data that the Postal Service provided on international mail, and whether public disclosure of such data was contemplated by section 3663. The Postal Service accompanied its March 15 submission of the ICRA and supporting materials to the Commission with a cover letter which asserted that most of the materials they contained were commercially sensitive internal documents that, ''under good business practice,'' would not be disclosed. This was a reference to section 410(c)(2) of the Postal Reorganization Act, which provides that the Freedom of Information Act (FOIA) shall not require the Postal Service to disclose ''information of a commercial nature, including trade secrets * * * which under good business practice would not be publicly disclosed.'' The Postal Service argued that it competes with the courier companies in the market for outbound expedited parcels and with foreign postal administrations in the market for bulk outbound letters. It asserted that because this competition is intense, most financial data about individual international services comes under this statutory non-disclosure provision. It noted that section 3663 requires only that the Commission's report be submitted to each house of Congress, and contains no language indicating a requirement that the report be publicly disclosed.

The Postal Service anticipated that the Commission would receive FOIA requests for the international mail data that the Postal Service provided. The Postal Service urged the Commission to process such requests according to Department of Justice guidelines, which recommend that FOIA requests for documents that originated in another agency be referred to the originating agency for processing, or that the originating agency be consulted before releasing such documents.

Shortly after the Postal Service provided its ICRA and supporting materials to the Commission, UPS filed a motion to gain access to them. Motion of UPS to Provide Public Access to International Data Requested in Order No. 1228 and for Opportunity to Provide Public Comment, filed March 26, 1999. Although its motion was not a FOIA request, UPS argued that disclosing international mail data was consistent with the broad national policy favoring disclosure of government records that underlies the FOIA. UPS asserted that the Commission's report would benefit from the input of parties affected by

international mail, and argued that any commercial harm from disclosure could be avoided by imposing appropriate protective conditions. UPS Motion at 2–3.

In reply, the Postal Service noted that section 410(c)(2) of the Act expressly shields commercially sensitive records in its possession from disclosure under the FOIA. It argued that there is nothing in the language of section 3663 to indicate that Congress intended it to override section 410(c)(2), or intended to subject commercially sensitive international mail data to the public hearing requirements that apply to data used to set domestic mail rates. USPS Response to Motion of UPS to Provide Public Access to International Mail Data Requested in Order No. 1228 and for Opportunity to Provide Public Comment, filed April 5, 1999, at 1–6.

The Postal Service asserted that the value of public input would be outweighed by the commercial harm that disclosure of detailed financial data on international mail would cause. Since none of its international services enjoys monopoly protection, it argued, detailed financial information about international mail is more commercially sensitive than comparable information is for domestic mail. It argued that it would be premature to publicly disclose such information before the implications of doing so are explored in rulemaking proceedings. Id at 6–7.

Commercial Sensitivity

The Postal Service identified three kinds of commercial information that it viewed as particularly sensitive. It argued that country-specific costs, volumes, and revenues were sensitive because most of the volume of outbound international mail comes from only a handful of large customers, and the identity of those customers could be inferred from country-specific volume and revenue data. Disclosing country-specific costs, it argued, would allow competitors to know how far the Postal Service could go to match price-cutting by competitors. Comments of the United States Postal Service on the Commission's 39 U.S.C. 3663 Report, filed April 8, 1999, (April 8 Memo) at 3–5.

The Postal Service argued that many of its charges for delivering inbound mail are negotiated with foreign postal administrations, and that disclosing cost data for such inbound delivery would reduce its negotiating room with those administrations. Id. at 4. Finally, it asserted, its so-called international ''initiatives'' (Global Package Link, Global Priority Mail, Global Parcel Services, Direct Entry/Inbound, and International Customized Mail) are recently introduced experimental services that are especially sensitive to the pressures of competitors. Disclosing product-specific financial information, it argued, would reveal the vulnerabilities of individual initiatives to its competitors. Id. at 6.

The Commission rejected UPS's motion to make public the data obtained by order No. 1228. The Commission noted that Congress must be presumed to have been aware of the explicit withholding provision of section 410(c)(2) and yet it provided no indication in the language or the legislative history of section 3663 that it intended section 3663 to override that provision. The Commission concluded that section 3663 was not intended to alter existing disclosure law contained in the Postal Reorganization Act or the Administrative Procedure Act. Order No. 1245 at 4.

After the Commission issued its section 3663 report, it received FOIA requests for a copy of the report and the source documents provided by the Postal Service. The Commission asked the Postal Service to indicate which portions of the report it believed should be redacted as commercially sensitive, and to explain the basis for its belief. The Postal Service responded with a memorandum that cited several Federal district court cases which conclude that section 410(c)(2), which authorizes the Postal Service to withhold commercial information that would be withheld ''under good business practice,'' is a specific statutory exemption from the FOIA's mandatory disclosure requirements. USPS Memorandum Concerning Categories of Information that Should be Deleted from Commission Report to Congress on International Mail Costs, Volumes, and Revenues, filed July 21, 1999, at 9–14 (July 21 Memo). For the reasons cited in its April 8 Memo, the Postal Service argued that several categories of information in the Commission's report met the ''good business practice'' standard of section 410(c)(2). These included costs and cost coverages for individual outbound services, and information from which such costs can be derived; service-specific costs disaggregated by component; costs, revenues, and volumes for individual ''initiatives''; costs, revenues, and volumes specific to a country or country group for individual outbound services, and costs for inbound services for which the Postal Service negotiates inbound delivery charges with individual countries, or sets them unilaterally by country group. July 21 Memo at 5–8. The Commission accepted most of the Postal Service's arguments, and provided those filing FOIA requests with copies of its report that had been redacted in a manner that was largely consistent with those arguments. *See*, e.g., Letter of Margaret Crenshaw, Secretary, Postal Rate Commission, to John McKeever, Piper and Marbury, dated July 29, 1999.

Challenge to Redacted Report

Piper and Marbury appealed the Commission's decision to provide it with a redacted copy of its section 3663 report, challenging the Commission's interpretation of the cases cited in the Postal Service's July 21 memo. [Piper and Marbury] Appeal on Partial Denial of Freedom of Information Act Request for Report Under 39 U.S.C. 3663, filed August 18, 1999.

The Commission denied Piper and Marbury's appeal, adhering to its interpretation of the relevant case law. *See* order no. 1261, issued September 15, 1999. Piper and Marbury also had requested a copy of all information supplied by the Postal Service that the Commission used to prepare its section 3663 report. The Postal Service asked the Commission to respond to this request by distinguishing between information in answers developed by the Postal Service in response to Commission questions, and information in records that were developed solely for the Postal Service's internal use.

With respect to information developed to answer Commission questions, the Postal Service identified categories in addition to those already specified in its July 21 Memo that it believed should be withheld under the ''good business practice'' standard of section 410(c)(2). The additional categories were: product-specific pricing strategy information, detailed product-specific postal operational information, and detailed information on revenue protection procedures. The Postal Service indicated specific redactions of the information developed to answer Commission questions that it believes come under this expanded list of sensitive categories. *See* Letter of William T. Johnstone, Managing Counsel, International and Ratemaking Law, United States Postal Service, to Margaret P. Crenshaw, Secretary, Postal Rate Commission, dated August 13, 1999.

With respect to records developed solely for the Postal Service's internal use, the Postal Service proposed that the Commission refer that part of the Piper and Marbury request back to the Postal Service for direct processing. The Postal Service argued that this practice is widely followed by Federal government

agencies and is consistent with the FOIA guidelines articulated by the Justice Department's Office of Information Policy (OIP). Id. at 2–4. The Commission chose to retain responsibility for processing FOIA requests for such records, but to consult closely with the Postal Service, which is another option that is consistent with the OIP guidelines. The Commission reaffirmed its request that the Postal Service review all of the records that it provided to the Commission as part of the section 3663 reporting process, identify the specific portions that it believed should be redacted, and explain the reasons for its belief. Letter of Margaret P. Crenshaw, Secretary, Postal Rate Commission, to Mary Elcano, General Counsel, United States Postal Service, dated August 24, 1999. The Commission will complete its processing of this part of the Piper and Marbury FOIA request when it receives the Postal Service's response.

Invitation for Comments

Interested persons are invited to comment on the Commission's initial effort to satisfy the requirements of 39 U.S.C. 3663. They may wish to comment, for example, on the adequacy of the information upon which the Commission's first international mail report was based. The Commission has drafted proposed rule 103 [39 CFR 3001.103], set forth below [Attachment A to the Notice]. Proposed rule 103 would add to the Commission's periodic reporting rules a list of items to be included in the Postal Service's data submission that must be filed by March 15 of each year, under section 3663(b). Comments on this proposed rule are invited.

Among the items listed as necessary to satisfy section 3663(b) are the CRA and CSC reports. These reports must be prepared by the Postal Service before it can prepare the ICRA report. The Commission needs them in order to verify the accuracy of various aspects of the ICRA report, including total international mail costs, and the domestic portion of transportation, processing, and delivery costs incurred by international mail services. Under proposed rule 103, if the Postal Service cannot include audited versions of the CRA and CSC reports with the ICRA that it files on March 15 of each year, it must include the unaudited versions that it used to prepare the ICRA.

Currently, the Postal Service has a duty under rule 102(a) to provide the Commission with audited versions of the CRA and CSC ''within two of weeks of [their] presentation for use by postal management.'' The date the Postal Service has filed these reports has varied, and the audited versions might arrive too late to assist the Commission in preparing the report on international mail required by section 3663, which is due on July 1 of each year. Accordingly, if the Postal Service has not already provided audited versions of the CRA and CSC in response to rule 102(a) by May 15 of a given year, the Postal Service would be required by proposed rule 103 to provide them by that date to allow the Commission sufficient time to reflect them in its section 3663 report.

In addition to commenting on the adequacy of the data that the Postal Service is to provide under section 3663(b), interested persons may wish to comment on the appropriate scope and detail of the Commission's annual international mail report itself. They may wish to comment, for example, on the analytical methods applied by the Commission to calculate the volumes, costs, and revenues of international mail services. Specifically, they may wish to comment on the revisions that the Postal Service made to its methods for calculating the settlement difference and attributable international air transportation costs in its FY 1998 ICRA Report—USPS Version, filed June 7, 1999. In the PRC versions of the FY 1998 ICRA Report, the difference between actual and accrued settlement expenses was treated as an incremental cost to international mail as a whole. The accrued international air transportation costs were used to adjust the imputed attributable international air transportation cost by service to the accrued level. As noted above, the Postal Service eliminated the settlement difference cost, and revised international air costs by service to reflect only the actual payment to airlines in the 1998 ICRA Report—USPS Version. *See* Appendix F of the Commission's report.

The Commission's preliminary view is that it would be appropriate to incorporate these revised methods in the FY 1999 ICRA Report to be filed March 15, 2000, since the accrued expenses do not reflect the actual monies paid out in the year under study. The Commission, however, is interested in the views of others concerning these revised methods. The Commission also invites the Postal Service to review Appendix F of the Commission's report and provide any comments it might have on the accuracy of the Commission's description of its former and revised methods, and provide any additional explanations for the revisions that it might deem appropriate.

As noted above, the Postal Service expressed its belief that it would be helpful to use rulemaking procedures to explore the implications of making commercial information about its international mail services public. Interested persons are invited to comment on the procedures that should be employed to determine which portions of the report or supporting documents should not be publicly disclosed, what criteria or standards should govern that determination, what categories of commercial information meet those standards, and the basis for that belief.

Finally, the Commission invites comments on any other issues that interested persons consider relevant to the Commission's duty to analyze and report on international mail costs, volumes, and revenues under section 3663. All comments received will be available at the Commission docket room, and will be posted on the Commission website (www.prc.gov). Responsive comments also are welcome and should be provided within fifteen days.

Ordering paragraphs. Ordering paragraph No. 1 invites interested persons to comment on the issues described in this notice related to the Commission's duties under 39 U.S.C. 3663 to submit annual reports to Congress on the costs, revenues, and volumes associated with international mail, and on the data and methods on which it should be based within 30 days of the publication of this notice in the **Federal Register**. Ordering paragraph No. 2 invites interested persons to submit reply comments within 15 days after initial comments are due. Ordering paragraph No. 3 directs the Secretary of the Commission to cause this notice of proposed rulemaking to appear in the **Federal Register**.

Dated: November 19, 1999.

Margaret P. Crenshaw,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure; Postal Service.

For the reasons stated in the preamble, the Postal Rate Commission proposes to amend 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 is revised to read as follows:

Authority: 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662, 3663.

2. Add § 3001.103 to subpart G to read as follows:

§ 3001.103 Filing of reports required by 39 U.S.C. 3663(b).

Each report listed in this section shall be filed with the Secretary of the Commission on or before March 15th of each year, and shall cover the most recent full fiscal year. Information contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law. Specific sources cited in this section should be understood to include any successor or substituted source.

(a) The International Cost and Revenue Analysis—PRC and USPS Versions.

(b) The Cost and Revenue Analysis Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15 that describes all adjustments that affect international mail.

(c) The Cost Segments and Components Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15 that describes all adjustments that affect international mail.

(d) Documentation and workpapers for the ICRA, including those related to:

(1) Terminal dues.

(2) Air conveyance dues.

(3) Transit charges.

(4) Imbalance charges.

(5) Inward land charges.

(6) Description of cost allocation procedures.

(7) Identification of costs that are exclusive to international mail.

(8) The cost of joint ventures with other postal administrations.

(9) International billing determinants.

(10) The data for Direct Entry separated between inbound and outbound as in the Postal Service's response to Item 1 of order no. 1246.

(11) The attributable costs for ValuePost/Canada developed in accordance with the procedure described in the Postal Service's response to Item 2 of order no. 1251, or any alternative procedure deemed appropriate as a basis for setting the rates for ValuePost/Canada. Costs for ValuePost/Canada should be separated between publications and all other printed matter. Its revenues and volumes should also be separated between publications and all other printed matter.

(e) Handbooks pertaining to the collection of volume and revenue data (MIDAS, SIRVO, SIRVI, Other) if they were revised or replaced since they were last submitted.

(f) International CRA manual input, A, B, C, and factor reports on a CD–ROM.

(g) A hard copy of the International CRA manual input and the C report.

(h) Cost Segment 3 CRA Worksheets and all supporting files, including the MODS-Based Costing Studies—PRC Version. Include all databases, SAS and other programs, and output worksheets.

(i) Cost Segment 7 CRA worksheets and all supporting files.

(j) The number of weighted tallies by international service separately for clerks and mailhandlers, and for city delivery carriers in-office; clerk and mailhandler tallies should be further separated for mail processing, window service, and all other.

(k) Coefficients of variation for:

(1) IOCS clerk and mailhandler tallies by mail processing, window service, and all other.

(2) IOCS city delivery carriers in-office.

(3) TRACS for purchased transportation by international, air, railroad, and other.

(4) Outbound volume by international service.

(5) Inbound volume by international service.

(l) The percentage of household mail and the percentage of non-household mail for each outbound mail service.

(m) The percentage of single-piece mail and bulk mail for each outbound service.

[FR Doc. 99–30711 Filed 11–24–99; 8:45 am]

BILLING CODE 7715–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0190b; FRL–6477–8]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District, Santa Barbara County Air Pollution Control District, Ventura County Air Pollution Control District, and Yolo-Solano County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compounds (VOC) from the storage and transfer of gasoline, loading of organic liquids, and fugitive hydrocarbons.

The intended effect of this action is to regulate emissions of VOC in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 27, 1999.

ADDRESSES: Comments should be addressed to: Christine Vineyard, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also 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 95812.

Sacramento Metropolitan Air Quality Management District, 777 12th Street 3rd Floor, Sacramento, CA 95814–1908.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93301.

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

Yolo-Solano Air Quality Management District, 1947 Galileo Ct., Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, [AIR–4], Air

Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197).

SUPPLEMENTARY INFORMATION: This document concerns Sacramento Metropolitan Air Quality Management District Rule 447, Organic Liquid Loading, Santa Barbara County Air Pollution Control District Rule 316, Storage & Transfer of Gasoline, Ventura County Air Pollution Control District Rule 70, Storage & Transfer of Gasoline, and Yolo-Solano County Air Pollution Control District Rule 2.23, Fugitive Hydrocarbons. These rules were submitted to EPA on June 23, 1998, March 10, 1998, August 1, 1997, and November 30, 1994, respectively, by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: November 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–30610 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket Nos. 94–1 and 96–262; FCC 99–345]

Prescription of Local Exchange Carrier Price Cap Productivity Offset (''X-Factor'')

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on the represcription of the productivity offset, or ''X-factor,'' in the local exchange carrier price cap formula. The X-factor of 6.5 percent prescribed by the Commission in the *1997 Price Cap Performance Review Order* was reversed and remanded to the agency by the U.S. Court of Appeals for the D.C. Circuit. Therefore, the Commission seeks comment on the retroactive prescription of the X-factor for the period affected by the court's remand, from July 1, 1997 to June 30, 2000, and on the prospective prescription, from July 1, 2000 forward. The Further Notice of Proposed Rulemaking (''FNPRM'') identifies three studies on which the historical component of the X-factor prescription may be based: the 1997 staff total factor productivity (''TFP'') study relied upon in the 1997 order; a new 1999 staff TFP study; or a staff Imputed X study. This document also seeks comment on whether a consumer productivity dividend (''CPD'') should be included in the X-factor.

DATES: Comments are due on or before December 30, 1999, and reply comments are due on or before January 14, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Aaron Goldschmidt, (202) 418–1520.

SUPPLEMENTARY INFORMATION: In 1997, the Commission represcribed the amount by which it annually adjusts price caps for incumbent local exchange carriers subject to the price cap rules (''price cap LECs''). *Price Cap Performance Review for Local Exchange Carriers*, 62 FR 31939, June 11, 1997 (''*1997 Price Cap Review Order*''). The revised price cap adjustment required price cap LECs to reduce inflation-adjusted prices for interstate access services by an ''X-factor'' of 6.5 percent annually. Pursuant to petitions for review of the Commission's order, the United States Court of Appeals for the District of Columbia Circuit reversed and remanded the Commission's decision. *USTA* v. *FCC*, 188 F.3d 521 (D.C. Cir. 1999). The court has stayed issuance of its mandate until April 1, 2000, to allow time for the Commission to conduct this proceeding. *USTA* v. *FCC*, Nos. 97–1469 *et al.*, (D.C. Cir. June 21, 1999).

In this Further Notice of Proposed Rulemaking (''FNPRM'') we seek comment on how we should represcribe an X-factor. More specifically, we seek comment on prescribing two separate X-factors to address retroactively the period affected by the court remand (July 1, 1997 to June 30, 2000), and prospectively the period from July 1, 2000 forward, or a single X-factor to cover the combined period. Specifically, we seek comment on three possible bases for setting the historical component of the X-factor: (1) by relying on the results of the 1997 staff TFP study used in the 1997 order; (2) by relying on the results of a new 1999 staff TFP study that makes several adjustments to the 1997 staff study; or (3) by relying on the results of a new staff Imputed X study that determines the X-factor that would have produced a competitive level of capital compensation in the interstate jurisdiction during the period between price cap performance reviews.

Further, we seek comment on resetting, on a forward-looking basis, price cap LEC prices to a level that is consistent with any X-factor prescription in order to rebalance the sharing of benefits of price caps between LECs and their customers. This FNPRM is limited to issues surrounding the setting of the X-factor, and does not include any broader changes to our method of price cap regulation.

In a separate but related proceeding, the Commission is seeking comment on a proposal submitted by the Coalition for Affordable Local and Long Distance Services (''CALLS''). *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, 64 FR 50527, September 16, 1999. The CALLS proposal would purportedly eliminate the necessity of retrospectively adjusting the X-factor in response to the court's remand. Instead, it would keep the X-factor at 6.5 percent, but would target X-factor reductions to the traffic-sensitive price cap basket. Once local switching rates reached a certain level, all price cap indices would be frozen. Adoption of the CALLS proposal would also eliminate the need to prescribe an X-factor on a going-forward basis. We seek comment in this proceeding on the prescription of the X-factor because, in the event that the CALLS proposal is not adopted, or not all price cap LECs become signatories to the proposal, the Commission must be prepared to prescribe a new X-factor before April 1, 2000.

Option 1: The 1997 Staff TFP Study

We seek comment on whether we should use only the results from the 1997 staff TFP study in setting the historical component of the X-factor for the remand period. We seek comment on whether, in addressing the court's remand, we are precluded from revising the X-factor using any other methodology, or from supplementing the data in the 1997 staff TFP study.

The court did not find fault with the 1997 staff TFP study, and did not ask us to revisit it. Instead, the court limited its critique of TFP to our selection of a value at the upper end of the reasonableness range, and with the upward adjustment to the reasonable range.

In their responses to a 1998 request to refresh the record in our *Access Charge Reform* proceeding, both USTA and AT&T used the methodology in the 1997 staff TFP study to extend the calculation of the X-factor through 1997. USTA has also calculated an X-factor for 1998. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the

close of the record for the remanded prescription. We note that USTA and AT&T did not agree with each other on the value of the historical component for 1996 and 1997. We seek comment on USTA's and AT&T's updates of the 1997 staff TFP study, and on their recommendations for prescribing an X-factor.

If we set the X-factor by using the 1997 staff TFP study, the court's remand requires that we justify our selection from within the reasonable range. Within the reasonable range, should we use some measure of central tendency, e.g., the mean or median, as the best estimator of productivity? Could and should we consider prescribing above the mean? If the reasonable range includes a statistically meaningful trend, should this inform our choice? What other justifications could be made for selecting above or below some measure of central tendency? Should these justifications affect our selection from the reasonable range, or are they more relevant to the selection of a CPD?

Option 2: The 1999 Staff TFP Study

In comments filed with the Commission late last year, several parties identified what they believe is a problem in the way in which the 1997 staff TFP study employed the TFP methodology commonly used in economic analysis to set an X-factor. The 1999 staff TFP study takes this potential problem as a point of departure and attempts to correct it. We seek comment on the 1999 staff TFP study, and on its premise that the 1997 staff TFP study methodology may fail to calculate an X-factor that is consistent with the objectives of our price cap plan.

The 1997 staff TFP study subtracts the cost of the labor and material inputs from revenues, and the residual revenue is assumed to be the cost of the capital input. The 1999 staff TFP study attempts to capture the gains in productivity that would have been revealed in a competitive marketplace by varying total capital compensation according to a measure of the competitive capital compensation rate.

We seek comment on the following method for adjusting the capital compensation in the 1997 staff TFP study. The first step is to identify a competitive price index series to use as a surrogate for the annual change for the cost of capital in a competitive market. The second step is to assume LEC capital compensation in 1991, the first full year of LEC price cap, was at a competitive level. Because price caps were implemented in 1991, the 1999 staff TFP study assumes that LECs earned a normal return in that year. The third step is to combine the competitive price index and the 1991 LEC capital compensation rate to create a competitive LEC capital compensation rate for the historical period. The fourth step is to increase or decrease LEC capital compensation based on this competitive LEC capital compensation rate. The fifth step is to adjust LEC revenues, making appropriate allowance for taxes, for the change in capital compensation. The final step is to recalculate LEC historical TFP using these revised capital compensation and revenue data.

In addition to updating the data for the period 1996–1998, the 1999 staff TFP study makes three other modifications to the 1997 staff TFP study. First, the 1999 staff TFP study uses the recently revised Bureau of Labor Statistics (''BLS'') series on multifactor productivity in place of the antecedent series. Second, the 1999 staff TFP study uses the number of dial equipment minutes, rather than the number of calls, in calculating the local service output index. Third, the 1999 staff TFP study recalculates the labor input to adjust for the fact that all the costs, but only a fraction of the benefits, of the 1992–95 employee buyouts have been recognized on the accounting books. We seek comment on these modifications to the 1997 staff TFP study.

Several additional aspects of the 1997 staff TFP study may warrant highlighting and comment. The 1999 staff TFP study does not make these adjustments because they either are not easily quantified, or do not make a significant impact on the level of the X-factor. We seek comment on the decision of the 1999 staff TFP study to not make any of these adjustments. We also seek comment on whether there are any additional issues that necessitate adjusting the X-factor, how any such adjustments would affect the X-factor, and how they should be made.

The court's remand requires that we justify our selection from within a reasonable range. We seek comment on how we should determine the reasonable range and how we should select from within this range. In our determination of the reasonable range in the *1997 Price Cap Review Order*, we gave recent years more weight than more distant years. Should we continue to discount more distant years? Should the period under price cap regulation be given more weight than the period under rate-of-return regulation? Given that price cap regulation may have been anticipated by price cap LECs for some years before its introduction, what years should be included in the price cap period?

We also seek comment on whether additional years of data should be considered in the remand, or whether the X-factor we select should rely on the same years of data as used in the *1997 Price Cap Review Order*. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the close of the record for the remanded prescription. Would it be more responsive to the court's remand to prescribe an X-factor based on data available in 1997 or to consider the additional data that has become available in the interim in setting the X-factor on a going-forward basis?

Option 3: The Staff Imputed X Study

As an alternative to either of the TFP methodologies, the Bureau staff also has performed a study, the staff Imputed X study, designed to calculate the X factor that yields the aggregate revenues that would have been generated in a competitive market. While price caps provide incentives for cost reduction similar to those of competition, they do not guarantee that revenues will follow a similar path. In a competitive market, revenues on average will be equal to costs, including compensation of capital at a competitive market level. This method is intended to replicate the effects of a competitive market in apportioning the gains from successful operation between carriers and consumers. The approach used here differs from the TFP approach, *inter alia*, in that it measures productivity growth by looking at aggregate expense and revenue data rather than by weighting and aggregating categories of physical inputs and outputs. In contrast to both of the TFP approaches, this method appears to have modest data requirements and to be computationally simple and easily understandable. Nevertheless, this method should have the same incentive effects as the TFP approach or any other method of calculating an X-factor.

The staff Imputed X study calculates the change in 1998 revenue and operating income for each price cap LEC that would result from imposing a hypothetical X-factor from the inception of price caps in 1991 through 1998. The results for all price cap LECs are aggregated, and the X-factor required to produce revenues equal to costs, including a competitive level of capital compensation in the aggregate for all LECs, is calculated. The calculation was also performed for 1991 through 1995 for comparison with the original TFP study. The calculation takes account of

the increase in the demand for service that would have resulted from the lower price. Changes in the competitive cost of capital were accounted for by adjusting the capital compensation found reasonable by the Commission at the inception of price caps by an index of bond rates over the period. The index is the same one used for the 1999 staff TFP study to measure the price of capital. Moody's Baa corporate bond rate was used. We noted above that, in a competitive capital market, indexes of bond rates will agree closely. Further, in an efficient market, there are no persistent arbitrage opportunities between different financial instruments, so that we have no reason to expect that the trend of bond rates would differ over time from that of the return on an efficient diversified portfolio. Thus, applying any of several published indices to the allowed rate at the beginning of the period will yield approximately the same estimate of the end-period rate.

The data used for these estimates differ from those used for the TFP calculations in that they are purely interstate in nature. The TFP calculations used total company data because of the difficulty of separating interstate and intrastate costs for the TFP calculations, despite interstate data being conceptually more appropriate for representing the services regulated by the Commission under price caps. The data for the staff Imputed X study also include all price cap carriers, whereas the TFP studies use data for the regional Bell operating companies (''RBOCs'') only. The calculations assume that a decrease in price would result in an increase in the quantity of service purchased, while the TFP calculations necessarily reflect only experience under the prices that were actually in effect. Finally, the staff Imputed X study does not make an adjustment in expense data comparable to the adjustment made in the 1999 staff TFP study to compensate for the accounting treatment of employee buyouts. To provide a check on the revised TFP calculations, the X-factor calculations using the staff Imputed X study were repeated using data only for the RBOCs and assuming no demand growth in response to lower prices. These calculations were performed for both 1995 and 1998.

We note that the approach described here is similar to the Direct Model proposed by AT&T, which the Commission has referred to as the Historical Revenue Approach in the 1997 price cap performance review proceeding. The staff Imputed X study differs from the approach proposed by AT&T primarily in that the staff calculation includes an adjustment to take account of likely demand stimulation resulting from a lower price cap, and the calculation takes account of changes over time in competitive return to capital. Data sources and calculations also differ somewhat. In the *Price Cap Performance Review for Local Exchange Carriers*, 60 FR 19526, April 19, 1995 (''*1995 Price Cap Review Order*''), the Commission noted that the Historical Revenue Approach has the advantage that it reflects performance in providing the interstate services that are subject to price caps, and includes input cost changes. In comments in the 1997 price cap performance review proceeding, GSA supported the Historical Revenue Approach and noted that it incorporates both TFP growth and the input price differential.

Most criticisms of AT&T's Historical Revenue Approach dealt with the data and methodology used by AT&T in its calculations. Commenters responding to AT&T's proposal pointed out that data reported under Commission accounting, separations, and other rules may not accurately track economic costs. In its comments in the 1997 price cap performance review proceeding, NYNEX criticized use of the Historical Revenue Approach on the grounds that accounting-based rules are a poor measure of a firm's economic performance. We note that the Commission declined to adopt the Historical Revenue Approach in the *1997 Price Cap Review Order* due to administrative concerns and incentive effects.

We seek comment on the validity of the staff Imputed X study for estimating the appropriate level of the X-factor. Does the X-factor estimated using these data and assumptions accurately represent the productivity growth achievable by the price cap LECs over the period examined? We request comment on the theoretical appropriateness of this methodology. We also seek comment on the following questions: Is an interstate-only calculation conceptually proper, and do the data allow an accurate measure of interstate revenues, expenses, and investment? Calculations reported in the staff Imputed X study show that X-factors calculated on an annual basis appear to increase over time. Are there explanations for the trend we see other than increasing efficiency? Does this apparent trend suggest that an additional adjustment, such as the CPD, is necessary in addition to revising the calculation of the X-factor? Alternatively, is the CPD no longer necessary because the approach described here sufficiently passes the benefits of increased efficiency to ratepayers? What is the appropriate method for determining the competitive cost of capital? Is applying an index of bond rates to the rate of return used by the Commission to initialize rates at the inception of price caps a reasonable approach? Would taking account of the mix of debt and equity held by the LECs yield a more accurate estimate of the trend in the cost of capital?

We request comment on the data and calculations used in the staff Imputed X study. Are more appropriate data sources available, and can adjustments be made that would improve the accuracy of the calculations reported here? AT&T in its Historical Revenue Approach in 1994 used Price Cap Indices (''PCIs'') from the Commission's Tariff Review Plan data to measure actual changes in allowed rates. This approach includes all changes that occurred in the price caps, including exogenous changes not related to the operation of the X factor. Is such an approach conceptually appropriate? Would use of PCIs rather than the X factor in effect more accurately reflect price performance for purposes of these calculations?

We also seek comment on whether, in responding to the remand, it is appropriate to use data for the period that was available to us at the time of the *1997 Price Cap Review Order*, or whether we should make use of the best information available to us now, including data for subsequent years that have become available in the meantime. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the close of the record for the remanded prescription. Would it be more responsive to the court's remand to prescribe an X-factor based on data contemporaneous with the prescription and to consider the additional data in setting the X-factor on a going-forward basis? In addition, the court's remand requires that we justify our selection from within a reasonable range. How should we determine a reasonable range for setting the X-factor using the staff Imputed X study, and how we should select from within that range?

Consumer Productivity Dividend

In *Policy and Rules Concerning Rates for Dominant Carriers*, 55 FR 42375, October 19, 1990 (''*LEC Price Cap Order*''), the Commission included a CPD of 0.5 percent in the X-factor offset to ensure that access customers received the first benefits of price caps in the form of reduced rates. This CPD was also included in the X-factor in

subsequent price cap review orders, including the *1997 Price Cap Review Order*, in which it was intended to offset the elimination of sharing requirements. These requirements had compelled price cap LECs to share a portion of their earnings above set percentages with access customers. The sharing requirements were intended to protect consumers against the possibility of an error in the establishment of the X-factor. Pursuant to the court's remand, the Commission seeks comment on whether to retain the CPD.

In remanding this issue to the Commission, the court specifically questioned the quantification of the CPD. When the Commission made its decision to include a CPD in the 1997 X-factor, the record included a study by Strategic Policy Research (''SPR'') that addressed the effects of eliminating the sharing requirements. The SPR study found that the LEC price cap plan with sharing requirements produced less than 35 percent of the efficiency incentives of unregulated competition. Those incentives decreased to 18 percent for price cap LECs whose earnings were in the 50–50 sharing category for each year of the four-year review cycle. The Commission discussed the SPR study in some detail in the *1995 Price Cap Review Order*. Although the Commission did not determine whether the SPR study accurately quantified the effects of sharing on productivity growth, it concluded that the study showed that there ''are substantial gains in incentives that [sharing] suppresses.'' *1995 LEC Price Cap Review Order*. The results of the SPR study were challenged by the Ad Hoc Telecommunications Users Committee (''Ad Hoc''), but Ad Hoc's own results indicated that sharing substantially reduced efficiency incentives. Ad Hoc's more conservative calculations indicated that elimination of sharing would increase efficiency incentives by at least 17 percent for all LECs, and by 41 percent for LECs in the 50–50 sharing category. We seek comment on the CPD amount justified on the basis of these studies to ensure that the benefits of sharing elimination would be apportioned between LECs and ratepayers. We also seek comment on additional methods for quantifying a CPD designed to ensure that consumers get a reasonable portion of the benefits from the elimination of sharing.

We also seek comment on whether a CPD should be included to reduce rates and correct for prior years when the X-factor may have been set too low. As noted above, the calculations used to set prior year X-factors may have underestimated LEC productivity. This underestimation may have caused rates to be set at too high a level. A mistake in the X-factor may not be self-correcting, but instead may cause increasingly erroneous prices over time. To obtain efficient prices in the future, it may be necessary both to adjust the value of the X-factor and to reset prices. Therefore, we seek comment on whether we should include in the X-factor a CPD designed to reduce rates, either by a one-time adjustment, or over a multi-year period, if we conclude that the X-factor historically has been set too low. If the reduction occurs over a multi-year period, should we account for the time value of money, and, if so, how should we calculate the reduction?

Prescribing the X-Factor on a Going-Forward Basis

We seek comment on whether we should prescribe an X-factor that would apply as of July 1, 2000 that is different from the retrospective X-factor applicable to the period affected by the court's remand, or whether the X-factor that we prescribe for the period beginning July 1, 1997 should continue in place until the next price cap performance review. We also seek comment on whether to include a prospective CPD adjustment in future X-factors to correct for any significant divergences between historic LEC productivity and prior X-factors, and on whether any such adjustment should be made at once or be phased in over several years.

In this FNPRM we seek comment on prescribing a future X-factor based on the results of the 1999 staff TFP study. In the alternative, we could prescribe an X-factor based on the results of the staff Imputed X study. Finally, we invite parties to comment on other alternatives that could serve as a basis for a future X-factor.

We also seek comment on how the prescription of the X-factor would affect smaller price cap LECs differently from other price cap LECs, and whether there should be a separate X-factor calculated for smaller price cap LECs.

In addition, we seek comment on how the Commission's proposed adjustments to the price cap rate structure in *Access Charge Reform,* 64 FR 51258, September 22, 1999 (''*Pricing Flexibility Order*'') should affect the annual reductions required by our price cap rules. We proposed in the *Pricing Flexibility Order* to add a ''q'' factor to the formulae used to adjust annually the price cap indices (''PCIs'') for the baskets that contain the charges for local switching and tandem switching. The q factor would reduce switching charges based on growth in demand. The q factor would operate similarly to the g factor present in the common line PCI formula. The g factor is used to share with IXCs the benefits of demand growth that LECs receive from per-minute growth per access line. As proposed, the affected baskets would be reduced annually by both the X-factor and the q factor. The staff studies attached herein, however, may capture in their X-factor estimates some or all of the effect intended to be captured by the q factor. We seek comment on whether a q factor is necessary if an X-factor is adopted that captures its effect, and on how to remove any double counting that might result from the application of both factors. For example, if the X-factor reduction was $10, and the q factor reduction was $4, then we could directly apply $4 to the baskets containing local and tandem switching, and allocate the remaining $6 amongst all the baskets according to our price cap rules.

We also proposed to adjust on a prospective basis for the past absence of a q factor in the formulae that annually adjust the PCIs of the baskets containing charges for local and tandem switching. We seek comment on how any such adjustment should affect any proposed adjustment to the PCIs for all price cap baskets to offset the cumulative effect of past X-factors that may have been set below the rate of cost reduction actually achieved by LECs. Should we apply the logic suggested in the example of the previous paragraph? If so, should the shift of switching ports to common line increase the common line basket's share of any adjustment based on the past absence of a q factor?

In addition to proposing a q factor, we proposed to increase the ''g'' factor that applies to certain revenues in the common line basket from g/2 to a full g. We seek comment on whether any prospective adjustment to our X-factor prescription would be appropriate to account for this.

Finally, we proposed to replace the existing per-minute rate structure for local switching and tandem switching with capacity charges. We seek comment on whether replacing per-minute charges with capacity charges affects future growth in LEC productivity. We seek comment on whether any prospective adjustment to our X-factor is required and on how we would quantify this adjustment.

Ex Parte Presentations

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with 47 CFR 1.1206(b). *Ex parte* presentations are permissible if disclosed in accordance with

Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. *See* 47 CFR 1.1206(b)(2). Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in this FNPRM. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM provided below. The Office of Public Affairs will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**. 5 U.S.C. 603(a).

Need for and Objectives of the Proposed Rules. The court has remanded to the Commission the selection of a 6.5 percent productivity offset, or X-factor, in the LEC price cap formula. In this FNPRM we seek comment on how we should represcribe an X-factor. We seek comment on prescribing one or more X-factors to address retroactively the period affected by the court remand (July 1, 1997 to June 30, 2000), and we seek comment on represcribing one or more X-factors from July 1, 2000 forward. Further, we seek comment on resetting, on a forward-looking basis, price cap LEC prices to a level that is consistent with any X-factor prescription in order to rebalance the sharing of benefits of price caps between LECs and their customers.

Legal Basis. The proposed action is supported by sections 1, 4(i), 4(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, and 303(r).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 15 U.S.C. 632. 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''). 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). The SBA has defined a small business for Standard Industrial Classification (''SIC'') category 4813 (Telephone Communications, Except Radiotelephone) to be an entity that has no more than 1,500 employees. 13 CFR 121.201.

We have included small incumbent LECs in this RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' 5 U.S.C. 601(3). The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,* 61 FR 45476, August 29, 1996. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

The proposals in the FNPRM apply only to price cap LECs. At the current time, there are 13 price cap LECs. Of these companies, 11 are listed in the Commission's most recent *Statistics of Communications Common Carriers (''SOCC'')* report as having more than 1,500 employees. Consequently, we estimate that 2 or fewer providers of local exchange service are small price cap LECs that may be affected by these proposals.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. We expect that, on balance, the proposals in this FNPRM will not change price cap LECs' administrative burdens or cause price cap LECs to incur any additional costs associated with proposed reporting and recordkeeping requirements. The studies would establish new X-factors that price cap LECs would need to utilize in their price cap calculations, but otherwise should not affect their administrative burdens or costs.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires agencies to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1)–(4). In the instant proceeding we are seeking comment on the prescription of the productivity offset, or X-factor, portion of the price cap formula. Therefore, only the first and last possible alternatives listed in section 603(c) of the RFA would be applicable. In the FNPRM, we seek comment on how the prescription of the X-factor would affect smaller price cap LECs differently from other price cap LECs, and whether there should be a separate X-factor calculated for smaller price cap LECs. We also do

not believe it would be appropriate to exempt small price cap LECs from the application of an X-factor. We seek comment on these issues and urge commenting parties to support their comments with specific evidence and analysis.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules. None.

Filing of Comments and Reply Comments

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments on or before December 30, 1999 and reply comments on or before January 14, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (''ECFS'') or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Only one copy of electronically-filed comments must be submitted.

Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW–B204, Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. The diskette should be submitted to: Wanda Harris, Federal Communications Commission, Common Carrier Bureau, Competitive Pricing Division, 445 12th Street, S.W., Fifth Floor, Washington, D.C. 20554. The submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case), type of pleading (comments or reply comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C. 20554.

Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, and 303(r), *Notice Is Hereby Given* of the rulemaking described above and that *Comment Is Sought* on those issues.

The Commission's Office of Public Affairs, Reference Operations Division, Shall Send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30741 Filed 11–24–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567 and 568

[Docket No. NHTSA–99–5673]

RIN 2127–AE27

Vehicles Built in Two or More Stages

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

ACTION: Notice of establishment of a negotiated rulemaking advisory committee and notice of the first meeting.

SUMMARY: NHTSA announces the establishment of a Negotiated Rulemaking Committee to develop recommended amendments to the existing NHTSA regulations (49 CFR parts 567 and 568) governing the certification of vehicles built in two or more stages to the Federal motor vehicle safety standards (49 CFR part 571). The purpose of the amendments would be to assign certification responsibilities more equitably among the various participants in the multi-stage vehicle manufacturing process. The Committee will develop its recommendations through a negotiation process. The Committee will consist of persons who represent the interests that would be affected by the proposed rule, such as first-stage, intermediate and final-stage manufacturers of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers. This notice also announces the time and place of the first advisory committee meeting. The public is invited to attend; an opportunity for members of the public to make oral presentations will be provided if time permits.

DATES: The first meeting of the advisory committee will be from 10 a.m. to 5 p.m. on Tuesday, December 14, 1999, and will continue from 9 a.m. to 3 p.m. on Wednesday, December 15, 1999.

ADDRESSES: The first meeting of the advisory committee will take place at the Hotel Washington, 515 15th Street, NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call Charles Hott, Office of Crashworthiness Standards, at 202–366–4920.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202-366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 1999, the National Highway Traffic Safety Administration (NHTSA) published a notice of intent to establish an advisory committee (Committee) for a negotiated rulemaking to develop recommendations for regulations governing the certification of vehicles built in two or more stages. The notice requested comment on membership, the interests affected by the rulemaking, the issues that the Committee should address, and the procedures that it should follow. The reader is referred to that notice (64 FR 27499) for further information on these issues.

NHTSA received 17 comments on the notice of intent. All commenters endorsed the concept of using the

negotiated rulemaking process for this subject. Commenters generally supported the proposed list of issues without specific comment.

Based on this response, and for the reasons stated in the notice of intent, we have determined that establishing an advisory committee on this subject is appropriate and in the public interest. In accordance with the Federal Advisory Committee Act (FACA; 5 U.S.C. App. I sec. 9(c)), we prepared a Charter for the Establishment of a Negotiated Rulemaking Advisory Committee. We intend to file the charter within fifteen (15) days from the date of this publication.

II. Membership

A total of 20 individuals were nominated or applied for membership to the Committee, either through written comments or through follow-up telephone calls.

In considering requests for representation on the Committee, we had to first determine whether the requesters represent interests significantly affected by the proposed rulemaking. As identified in the notice of intent, in addition to the Department of Transportation (DOT), these interests are: manufacturers of various stages of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers of the affected vehicles.

Following is the list of Committee members, identified by interest. Members are encouraged to designate alternates who can serve in place of the member if necessary. As noted in the notice of intent, the Committee will make its decisions through a process of negotiation leading to consensus. ''Consensus'' means the unanimous concurrence among the interests represented on the Committee, unless the Committee explicitly adopts a different definition.

The meetings of the Committee will be facilitated by Phillip Harter and Alan Strasser of the Mediation Institute. The organizations and interests that will participate in the negotiated rulemaking are:

National Highway Traffic Safety Administration:

1. Rebecca MacPherson, Department of Transportation, NHTSA;

Incomplete Vehicle Manufacturers:

2. Timothy Blubaugh, Freightliner Corporation;
3. Lindsay Harding, Ford Motor Company;
4. Paul Murphy, Motor Coach Industries, International;
5. David Stensland, Navistar International Transportation Corporation;
6. Glenn Zuchniewicz, General Motors Corporation;

Component Manufacturers:

7. Jerome Loftus, Atwood Mobile Products;
8. Paul Wagner, Bornemann Products, Inc.

Final Stage Manufacturers:

9. Andy Callaway, Mark III Industries;
10. Phillip Headley, Environmental Industries Association;
11. David Humphreys, Recreational Vehicle Industry Association (RVIA);
12. Michael Kastner, National Truck Equipment Association (NTEA);
13. Mark Sidman, Ambulance Manufacturers Division, Manufacturers Council of Small School Buses, and Mid-Size Bus Manufacturers Association;
14. Thomas Turner, Blue Bird Body Company;
15. Becky Plank, National Mobility Equipment Dealers Association (NMEDA);

Dealers:

16. Douglas Greenhaus, National Automobile Dealers Association (NADA);

Testing Facilities:

17. John Phillips, Transportation Research Center (TRC);

Consumer Representatives:

18. Christopher Amos, National Association of Fleet Manufacturers;
19. Mark Edwards, AAA;
20. Clarence Ditlow, Center for Auto Safety;
21. Bob Herman, Paralyzed Veterans of America (PVA).

III. Participation by Non-Members

Meetings of the Committee will be open to the public so that individuals who are not part of the Committee may attend and observe. Any person attending the Committee meetings may address the Committee, if time permits, or file statements with the Committee.

IV. Key Issues for Negotiation

In its notice of intent, NHTSA tentatively identified major issues that should be considered in this negotiated rulemaking and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

- Equitable and effective allocation of certification responsibility;
- Enforcement issues relevant to each stage of manufacturing;
- Costs to regulated parties of testing or certification;
- Effects on safety;
- Effects on small businesses;
- Enforceability against later-stage manufacturers of standards that include dynamic testing;
- Feasibility and cost effectiveness of alternate methods (e.g., testing, computer modeling, or other as-yet-unspecified methods) to ensure compliance of completed vehicles with requirements of applicable FMVSSs;
- Mechanisms for incorporating alternate methods of ensuring compliance into these regulations;
- Mechanisms for sharing costs of testing;
- Requirements tailored to the capabilities and circumstances of each class of vehicles;
- Extended leadtime for implementation of FMVSSs for final-stage manufacturers;
- Recall and warranty responsibilities of manufacturers;
- Pass-through certification as a compliance option;
- Relative administrative/compliance burdens of certification on first-stage and later-stage manufacturers; and
- Scope of compliance ''envelopes'' prescribed by first-stage manufacturers and ability of intermediate- and final-stage manufacturers to stay within those envelopes.

Commenters neither objected to these issues nor suggested that additional issues be addressed. Accordingly, they will be the issues considered by the Committee.

V. Procedures and Schedule

Staff support for the Committee will be provided by NHTSA and the facilitator, and meetings will take place in Washington, DC, unless agreed otherwise by the Committee.

Consistent with FACA requirements, the facilitator will prepare summaries of each Committee meeting. These summaries and all documents submitted to the Committee will be placed in the public docket for this rulemaking.

As stated in the notice of intent, the Committee's objective is to prepare a report containing an outline of its recommendations for a notice of proposed rulemaking with suggestions for specific preamble and regulatory language based on the Committee's recommendations, as well as information relevant to a regulatory evaluation and an evaluation of the impacts of the proposal on small businesses.

The negotiation process will proceed according to a schedule of specific dates that the Committee devises at its first meeting on December 14–15, 1999. NHTSA will publish notices of future meetings in the **Federal Register**. We

anticipate that the Committee will meet for up to five two-day sessions beginning in December 1999. If the Committee establishes working groups to support its work, additional meetings for the working groups may be necessary.

NHTSA intends to accept the Committee recommendations, keeping in mind its statutory authority and other legal requirements. In the event that the agency rejects any of the recommendations, the preamble to a NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the rejection.

VI. Meeting Agenda

The first meeting of the negotiated rulemaking committee will begin at 10 a.m. on December 14, 1999, with consideration of Committee ground rules, procedures, and calendar.[1] The Committee will then address the specific issues that should be included in the negotiation and how data to support its deliberations will be developed. In addition, the Committee will consider whether to establish working groups to provide technical support and recommendations for specific aspects of the negotiations. The first meeting will conclude no later than 3 p.m. on December 15.

VII. Authority

5 U.S.C. 561 *et seq.*, delegation of authority at 49 CFR 1.50.

Issued on: November 19, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–30740 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–59–P

[1] NHTSA will publish a single notice of the schedule of all future meetings in the **Federal Register**, but will amend the notice through subsequent **Federal Register** notices if it becomes necessary to do so.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 110899D]

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to receive comments on a Draft Charter Vessel/Headboat Permit Moratorium Amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico and to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and South Atlantic (Draft Amendment).

DATES: Written comments on the Draft Amendment will be accepted by the Gulf Council until January 3, 2000. The public hearings will be held in December. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to and copies of the draft amendment are available from the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619, telephone: 813–228–2815. The public hearings will be held in Texas, Florida, Louisiana, Mississippi, and Alabama. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: In the Gulf of Mexico region there are presently about 1,286 charter vessels and 91 headboats. This represents an estimated 32–percent increase in the number of charter vessels and a 6–percent decrease in the number headboats between 1988 and 1998. Additionally, the number of charter vessel trips has increased 187 percent between 1988 and 1997.

The Council is considering implementation of a temporary moratorium on the issuance of charter vessel/headboat permits to fish the exclusive economic zone (EEZ) for reef fish and coastal migratory pelagics (mackerel) fish. A moratorium, if adopted by the Council and approved and implemented by NMFS, would provide a basis for the development of a more comprehensive effort limitation program for this segment of the recreational fisheries that could provide better long-term fishing effort control.

The Draft Amendment considers seven features of the proposed moratorium: (1) The duration of the moratorium; (2) initial eligibility requirements for a permit; (3) permit transfers during the moratorium; (4) vessel size for permit transfer; (5) the reissuance of permits not renewed; (6) a permit appeal process; and (7) vessel reporting. At present, the Council suggests a preferred alternative containing the following elements: (1) The establishment of a 3-year charter vessel/headboat permit moratorium; (2) an initial eligibility requirement according to which all persons holding charter vessel/headboat permits on September 16, 1999, are eligible; (3) the allowance of permit transfers during the moratorium between (a) vessels owned by the permit holder and (b) individuals without transfer of the vessel; and (4) NMFS's suspension of permits not renewed (or permanently revoked) during the moratorium.

The Council has not selected preferred alternatives for (1) vessel size restriction on permit transfers, (2) the appeals process under moratorium, or (3) vessel reporting requirements.

Time and Location for Public Hearings

Public hearings for the Draft Charter Vessel/Headboat Permit Moratorium Amendment will be held at the following locations, dates, and times. In addition, public testimony will be accepted at the Gulf Council meeting in Fort Walton Beach, Florida on January 19, 2000.

1. December 6, 1999, 7:00 p.m. to 10:00 p.m., Port Isabel Community Center, 213 Yturria, Port Isabel, TX 78578
2. December 6, 1999, 7:00 p.m. to 10:00 p.m., Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040
3. December 7, 1999, 7:00 p.m. to 10:00 p.m., Port Aransas Civic Center Auditorium, 710 West Avenue A, Port Aransas, TX 78373
4. December 7, 1999, 7:00 p.m. to 10:00 p.m., Naples Depot Civic Cultural Center 1051 Fifth Avenue South, Naples, FL 34102
5. December 8, 1999, 7:00 p.m. to 10:00 p.m., Texas A&M Auditorium, 200 Seawolf Parkway, Galveston, TX 77553
6. December 8, 1999, 7:00 p.m. to 10:00 p.m., City Hall Auditorium, 300 Municipal Drive, Madeira Beach, FL 33708
7. December 9, 1999, 7:00 p.m. to 10:00 p.m., Larose Regional Park, 2001 East 5th Street, Larose, LA 70373
8. Monday, December 13, 1999, 6:00 p.m. to 9:00 p.m., J. L. Scott Marine Education Center & Aquarium, 115 East Beach Blvd., US Hwy. 90, Biloxi, MS 39530
9. December 14, 1999, 7:00 p.m. to 10:00 p.m., Hilton Beachfront Garden Inn, 23092 Perdido Beach Boulevard, Orange Beach, AL 36561
10. December 15, 1999, 6:00 p.m. to 9:00 p.m., Gulf Coast Community College, Student Union East Building, Gibson Lecture Hall (2nd Floor), 5230

West Highway 98, Panama City, FL 32401

Copies of the Draft Amendment can be obtained from the Council (see **ADDRESSES**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 29, 1999.

Dated: November 19, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–30807 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 227

Friday, November 26, 1999

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, Nutrition, and Consumer Services

Research, Education, and Economics

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

National Nutrition Summit: Notice of a Public Meeting To Solicit Input in the Planning of a National Nutrition Summit

AGENCIES: U.S. Department of Agriculture and U.S. Department of Health and Human Services.

ACTION: National Nutrition Summit: Notice of a public meeting to solicit input in the planning of a National Nutrition Summit.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) provide notice of a public meeting to solicit input in the planning of the National Nutrition Summit. The meeting will be held at the Jefferson Auditorium of the South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC, near the Smithsonian Metro station.

DATES: The public meeting to solicit input for the National Nutrition Summit (the Summit) will be held on December 9, 1999, from 9 a.m. to 1 p.m. e.s.t.

FOR FURTHER INFORMATION CONTACT: Shanthy A. Bowman, USDA, Agricultural Research Service, 301–504–0619, or Paul M. Coates, HHS, National Institutes of Health, 301–435–2920.

SUPPLEMENTARY INFORMATION:

Background Information on the Summit

The USDA and HHS are planning a National Nutrition Summit that is tentatively scheduled for May 30–31, 2000, in Washington, DC. This Summit is intended to provide opportunity (a) to highlight accomplishments in the areas of Food, Nutrition, and Health since the White House Conference on this subject held in 1969; (b) to identify continuing challenges and emerging opportunities for the Nation in these areas; and (c) to focus on nutrition and lifestyle issues across the lifespan, especially those that we confront in solving the Nation's epidemic of overweight and obesity.

Registration for Oral Presentation

Registration is required to provide oral input for the Summit at the public meeting on December 9, 1999. Requests to provide oral input at the meeting should be submitted by 5:00 p.m. e.s.t. December 7, 1999, to Shanthy A. Bowman, USDA, Agricultural Research Service, 301–504–0619. Name of the presenter, organization affiliation (if applicable), city, state, and contact phone number are required for registration. Presenters will be selected on first come basis. Presentations should be limited to three (3) minutes or less. Registration will also be accepted at the meeting, if time slots are available.

Written Comments

Written comments will be accepted at the public meeting on December 9, 1999. Written comments may also be submitted by 5:00 p.m. e.s.t. December 20, 1999 to Shanthy A. Bowman, USDA–ARS–BHNRC, 10300 Baltimore Avenue, Bldg 005, Rm 125, BARC-West, Beltsville, MD 20705–2325.

Agenda

The agenda for the public meeting will include, but will not be limited to, a) introductory remarks from the representatives of the Departments of Agriculture and Health and Human Services, b) public meeting session on nutrition and lifestyle approaches to solving the nation's epidemic of overweight, and c) public meeting session on nutrition and physical activity across the lifespan.

The HHS and USDA Summit Steering Committee is interested in receiving input that will help guide the planning activities for the Summit, in relation to the above mentioned areas. The Summit Steering Committee includes representatives of the HHS Centers for Disease Control and Prevention, National Institutes of Health and Office of the Secretary and the USDA mission areas of Research, Education, and Economics and Food, Nutrition, and Consumer Services.

Dated: November 18, 1999.

Julie Paradis,

Deputy Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture.

Eileen T. Kennedy,

Deputy Under Secretary, Research, Education, and Economics, Department of Agriculture.

Nicole Lurie,

Principal Deputy Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 99–30812 Filed 11–24–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of the Land Between The Lakes (LBL) Advisory Board

AGENCY: Forest Service.

ACTION: Notice of intent to establish the LBL Advisory Board.

SUMMARY: Notice is hereby given that, in accordance with the Land Between The Lakes Protection Act of 1998, the Secretary of Agriculture intends to establish the Land Between The Lakes Advisory Board (LBLAB). Land Between The Lakes (LBL) is a 170,000-acre National Recreation Area located in western Kentucky and Tennessee; it is bounded by the Tennessee River and Kentucky Lake on the west and the Cumberland River and Lake Barkley on the east.

LBL is one of the largest tracts of Federal land in the eastern United States. It is managed for multiple purposes to optimize a wide variety of outdoor recreation uses and to provide a national resource for environmental education. At LBL, innovative programs in these fields can be tested and carried out. LBL is also a significant economic stimulus for the surrounding region.

Until September 30, 1999, LBL was managed by the Tennessee Valley Authority (TVA). On October 1, 1999, management of LBL transferred from TVA to the USDA Forest Service in accordance with the Land Between The Lakes Protection Act of 1998 (LBL Protection Act). The LBL Protection Act states the Secretary of Agriculture shall establish an advisory board to receive

advice on (1) means of promoting public participation for LBL's land and resource management plan, and (2) environmental education.

As required in the LBL Protection Act, seventeen members shall be appointed to the LBLAB as follows:

- 4 persons selected by the Secretary of Agriculture, including:
  - 2 residents of the State of Kentucky
  - 2 residents of the State of Tennessee
- 2 person selected by the Governor of Tennessee;
- 2 persons selected by the Governor of Kentucky;
- 2 persons selected by the Commissioner (or designee) of the Kentucky Department of Fish and Wildlife Resources;
- 1 person selected by the Commission (or designee) of the Tennessee Wildlife Resources Agency;
- 2 persons selected by the Judge Executive of Lyon County, Kentucky;
- 2 persons selected by the Judge Executive of Trigg County, Kentucky; and
- 2 persons selected by the County Executive of Stewart County, Tennessee.

LBLAB will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Persons interested in being considered for appointment to LBLAB should contact Kathy Coursey, LBLAB Administrative Officer, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, phone 270–924–2272, email kccoursey@tva.gov.

FOR FURTHER INFORMATION CONTACT: Kathy Coursey, LBLAB Administrative Officer, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, 270–924–2272, kccoursey@tva.gov.

Dated: November 16, 1999.

Ann W. Wright,

General Manager, Land Between The Lakes.

[FR Doc. 99–30785 Filed 11–24–99 8:45 am]

BILLING CODE 8120–08–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 10:00 a.m. local time on December 9, 1999 at the Funger Building, Room 103, The George Washington University 2201 G Street, N.W. Washington, D.C. 20052. Topics to be discussed at the meeting will include: implementation of various Board Directives, including the Board members request to withdraw the agency's preliminary budget request for fiscal year 2001; the agency's compliance with the Government in the Sunshine Act; the status of the agency's on-going investigations; and the status of the agency's annual reports to the President and Congress. The meeting will be open to the public. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of External Relations, (202)–261–7600, or visit our website at: *www.csb.gov.*

Gerald V. Poje,

Board Member.

[FR Doc. 99–30922 Filed 11–23–99; 2:36 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 991112302–9302–01]

RIN Number 0607–XX48

1999 Company Organization Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The U.S. Census Bureau is conducting the 1999 Company Organization Survey. The survey's data are needed, in part, to update the multi-establishment companies in the Business Register. The survey, which has been conducted annually since 1974, is designed to collect information on the number of employees, payroll, geographic location, current operational status, and kind of business for the establishments of multi-location companies. We have determined that annual data collected from this survey are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from this survey are not available from any other source.

FOR FURTHER INFORMATION CONTACT: Paul Hanczaryk, Economic Planning and Coordination Division, U.S. Census Bureau, Room 2747, Federal Building 3, Washington, DC 20233–6100, telephone (301) 457–2580.

SUPPLEMENTARY INFORMATION: Title 13, United States Code, Sections 182, 195, 224, and 225, authorize the Census Bureau to undertake surveys necessary to furnish current data on the subjects covered by the major censuses. This survey will provide continuing and timely national statistical data for the period between economic censuses. The next economic censuses will be conducted for the year 2002. The data collected in this survey will be within the general scope, type, and character of those that are covered in the economic censuses.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the Paperwork Reduction Act, 44 U.S.C., Chapter 35, the OMB approved the survey on November 3, 1999, under OMB control Number 0607–0444. We will furnish report forms to organizations included in the survey, and additional copies are available on written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

I have, therefore, directed that the 1999 Company Organization Survey be conducted for the purpose of collecting these data.

Dated: November 12, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–30768 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 991116304–9304–01]

RIN Number 0607–XX49

Annual Surveys in the Manufacturing Area

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The U.S. Census Bureau is conducting the 1999 Annual Surveys in the Manufacturing Area. The 1999 Annual Surveys consist of the Current Industrial Reports surveys, the Annual Survey of Manufactures, the Survey of Industrial Research and Development, and the Survey of Plant Capacity Utilization. We have determined that annual data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been

conducted for many years, are not publicly available from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: William G. Bostic, Jr., Chief, Manufacturing and Construction Division, on (301) 457–4593.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by Title 13, United States Code, sections 61, 81, 182, 224, and 225. These surveys will provide continuing and timely national statistical data on manufacturing for the period between economic censuses. The next economic censuses will be conducted for the year 2002. The data collected in these surveys will be within the general scope and nature of those inquiries covered in the economic censuses.

Current Industrial Reports

Most of the following commodity or product surveys provide data on shipments or production, data on stocks, unfilled orders, orders booked, consumption, and so forth. Reports will be required of all, or a sample of, establishments engaged in the production of the items covered by the following list of surveys.

In 1998, the Census Bureau converted the Current Industrial Reports (CIR) survey form names to reflect the switch from the old U.S. Standard Industrial Classification (SIC) system to the new North American Industry Classification System (NAICS). Therefore, all surveys listed below are identified with their NAICS classification.

Survey Title

MA313F Yarn Production
MA313K Knit Fabric Production
MA314Q Carpets and Rugs
MA315D Gloves and Mittens
MA321T Lumber Production and Mill Stocks
MA325A Inorganic Chemicals
MA325B Inorganic Fertilizer Materials and Related Product
MA325C Industrial Gases
MA325F Paint and Allied Products
MA325G Pharmaceutical Preparations, except Biologicals
MA316A Footwear Production
MA327C Refractories
MA327E Consumer, Scientific, Technical, and Industrial Glassware
MA331A Iron and Steel Castings
MA331B Steel Mill Products
MA331E Nonferrous Castings
MA335J Insulated Wire and Cable
MA332K Steel Shipping Drums and Pails
MA333A Farm Machinery and Lawn and Garden Equipment
MA333D Construction Machinery
MA333F Mining Machinery and Mineral Processing Equipment
MA333J Selected Industrial Air Pollution Control Equipment
MA333L Internal Combustion Engines
MA333M Refrigeration, Air-conditioning, and Warm Air Equipment
MA333P Pumps and Compressors
MA332Q Antifriction Bearings
MA334R Computers and Office and Accounting Machines
MA335A Switchgear, Switchboard Apparatus, Relays, and Industrial Controls
MA335E Electric Housewares and Fans
MA335F Major Household Appliances
MA335H Motors and Generators
MA335K Wiring Devices and Supplies
MA334M Consumer Electronics
MA334P Communication Equipment
MA334Q Semiconductors, Printed Circuit Boards, and Electronic Components
MA334B Selected Instruments and Related Products
MA334S Electromedical and Irradiation Equipment

The following list of surveys represent annual counterparts of monthly and quarterly surveys and will cover only those establishments that are not canvassed, or do not report, in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Survey Title

M311H Animal and Vegetable Fats and Oils (Stocks)
M311J Oilseeds, Beans, and Nuts (Primary Producers)
M311L Fats and Oils; (Renderers)
M311M Animal and Vegetables Fats and Oils (Consumption and Stocks)
M311N Animal and Vegetables Fats and Oils (Production, Consumption, and Stock)
M313P Consumption on the Cotton System
M327G Glass Containers
M331J Inventories of Steel Producing Mills
M336G Civil Aircraft and Aircraft Engines
M336L Truck Trailers
MQ311A Flour Milling Products
MQ313D Consumption on the Woolen System and Worsted Combing
MQ313T Broadwoven Fabrics (Gray)
MQ315A Apparel
MQ314X Bed and Bath Furnishings
MQ327D Clay Construction Products
MQ332E Plumbing Fixtures
MQ333W Metalworking Machinery
MQ335C Fluorescent Lamp Ballasts

Annual Survey of Manufactures

The Annual Survey of Manufactures collects industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey, while conducted on a sample basis, covers all manufacturing industries, including data on plants under construction but not yet in operation.

Survey of Industrial Research and Development

The Survey of Industrial Research and Development measures spending on research and development activities in private U.S. businesses. The Census Bureau collects and compiles this information with funding from the National Science Foundation (NSF). The NSF publishes the results in its publication series. Four data items in the survey provide interim statistics collected in the Census Bureau's Economic Censuses. These items (total company sales, total company employment, and total expenditures and Federally-funded expenditures for research and development conducted within the company) are collected on a mandatory basis under the authority of Title 13, U.S.C. Responses to all other data collected for the NSF are voluntary.

Survey of Plant Capacity Utilization

The Survey of Plant Capacity Utilization is designed to measure the use of industrial capacity. The survey collects information on actual output and estimates of potential output in terms of value of production. These data are the basis for calculating rates of utilization of full production capability and use of production capability under national emergency conditions.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, the OMB approved the 1999 Annual Surveys under the following OMB Control Numbers: Current Industrial Reports—0607–0206, 0607–0392, 0607–0393, 0607–0395, 0607–0476, and 0607–0776; Annual Surveys of Manufactures—0607–0449; Survey of Industrial Research and Development—3145–0027; and, Survey of Plant Capacity Utilization—0607–0175. We will provide copies of the form upon written request to the Director, Bureau of the Census, Washington, DC 20233–0001.

Based upon the foregoing, I have directed that the Annual Surveys in the Manufacturing Area be conducted for the purpose of collecting these data.

Dated: November 19, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–30767 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 991028291–9291–01]

RIN 0648–ZA75

Office of Research and Applications Ocean Remote Sensing Program; Notice of Financial Assistance

AGENCY: National Oceanic and Atmospheric Administration (NOAA), National Environmental Satellite, Data, and Information Service (NESDIS).

ACTION: Notice of availability of Federal assistance.

SUMMARY: The NESDIS Office of Research and Applications (ORA) announces the availability of Federal assistance for fiscal year 2000 (FY 2000) in the Ocean Remote Sensing Program area. This announcement provides details on the technical program, and includes detailed guidelines on proposal submission, evaluation criteria and selection procedures. Selected recipients will either receive a grant, or enter into a cooperative agreement with ORA, depending upon the amount of the Office's involvement in the project. A project will be considered a grant where the proposed work is considered substantially independent work. A cooperative agreement will be considered where there is substantial involvement by the Office in the proposed work.

All applicants are required to submit a NOAA Grants Application Package and project proposal. The standard NOAA Grants Application Package (which includes Forms SF–424, SF–424A, SF–424B, SF–424C, SF–424D, CD–511, CD–512, and SF-LLL) can be obtained from the NOAA Grants Website at http://www.rdc.noaa.gov/~grants/pdf/. If Internet access is not available, a Grants Package can be obtained by mail by contacting the NOAA/NESDIS/ORA at (301) 763–8127. Funding for this program area in FY 2000 will be contingent upon the availability of funds but is anticipated to be in the range of $100,000 to $500,000. Individual awards are expected to range from a minimum of $50,000 to $150,000 on an annual basis. Successful proposals that are deemed to be exceptionally meritorious by the Selection Panel may be larger. There is no guarantee that all the areas of research interest identified in this Notice will be able to receive funding consideration.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

DATES: Proposals with completed Grants Applications Package must be received by ORA no later than 5:00 p.m. EST on January 17, 2000. Final selection is anticipated to be completed by approximately March 3, 2000. The earliest anticipated start date is June 1, 2000.

ADDRESSES: Send all proposals to the Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Room 701; Camp Springs, MD 20746–4304. Proposals should cite this Notice and be sent to the attention of Dr. H. Lee Dantzler, Jr., Chief, Oceanic Research and Applications Division.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to Kathy LeFevre, (301) 763–8127 or klefevre@nesdis.noaa.gov. Technical point of contact is Dr. H. Lee Dantzler, Jr. at (301) 763–8184 or ldantzler@nesdis.noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for these programs is provided under 33 U.S.C. 1442 (Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems); 15 U.S.C. (Cooperative Agreements); and 49 U.S.C. 44720 (Meteorological Services).

Catalog of Federal Domestic Assistance (CFDA)

This program is listed in the Catalog of Federal Domestic Assistance under Number 11.440 (Research in Remote Sensing of the Earth and Environment).

General Information

Environmental prediction, assessment and the conservation and management of coastal and oceanic resources are primary functions of NOAA. NESDIS, one of the five principal Offices within NOAA, is the world's largest civil, operational environmental space organization and operates the Nation's civil geostationary and polar-orbiting environmental satellites. NESDIS also facilitates the acquisition of non-U.S. environmental satellite data through international agreements. Satellite systems provide data and information that are critical to weather forecasting; natural disaster response and mitigation; climate change forecasts and research; living and non-living marine resources management; and coastal and open oceanographic research. ORA provides overall guidance and direction to the oceanic, atmospheric and climate research and applications activities of NESDIS. The Ocean Remote Sensing Program, managed by ORA's Oceanic Research and Applications Division, has as its goal to help build capabilities nationwide to make expanded and improved use of earth-orbiting satellite data and information. The Program has particular interest in activities relating to sustaining healthy coasts, building sustainable fisheries, recovering protected species, providing improved environmental forecasts, and preparing for future NOAA operational satellite missions.

Program Description

The Ocean Remote Sensing Program seeks to expand the use of and improve access to operational satellite oceanographic data by state, Federal, regional governmental and non-profit entity users. The program is seeking proposals in each of the following research areas listed in approximate priority order: (1) The application of satellite oceanographic data and information in coastal and oceanic marine (living and non-living) resources management; (2) The application of satellite oceanographic data to gain improved insight on regional oceanographic factors affecting important fisheries and critical ecosystems (*e.g.*, essential fish habitat, early life recruitment and survival, stock assessment, protected species, important socio-economic interactions, and coral reefs); (3) Innovative techniques to simplify and improve access to satellite oceanographic data by public users (*e.g.*, access by educators, by users employing geographic information systems (GIS) technologies, and by users employing Internet-based

data access and data distribution technologies); (4) Research to increase the accuracy, precision and quantitative use of satellite oceanographic data in coastal and ocean surface research investigations (*e.g.*, sea surface temperature, ocean color, ocean surface winds, sea level and surface height, and sea surface roughness derived from spaceborne synthetic aperture radar); (5) Research supporting the development of future ocean sensing capable U.S. satellite systems (e.g., the National Polar-Orbiting Operational Environmental Satellite System (NPOESS)); and (6) Improved coastal and oceanic climatologies using satellite oceanographic data. All proposals will be evaluated in the context of the potential value of the proposed work to a targeted user community (to be identified in the proposal), and the relationship of the proposed work to the NOAA/NESDIS mission (as described in the ''General Information'' section of this Notice).

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert service to other NESDIS Offices and Centers relating to satellite sensor development, instrument performance, and systems hardware components. It coordinates with other NESDIS Offices and Centers, appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign organizations, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among the Centers and Offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It also produces and provides specific programmatic studies, statistics, and scientific recommendations as needed.

Project Proposals

Project proposals must be received by ORA by the time and date indicated in the ''DATES'' section of this Notice. Proposals received after that time and date will not receive consideration. In addition to the information requested below, the offeror must submit a complete NOAA grants application package (with signed originals). All project proposals must include the sections identified below and total no more than eight pages (excluding title page and any appendices) in double-spaced, 12-point font format. Multi-year proposals, in annual increments up to a maximum of three years, will be considered; however, funding beyond the first year will be dependent upon satisfactory performance and the continued availability of funds.

1. Title page—The title page shall provide the project's title, the lead Principal Investigator (PI) name(s), Partner name(s) if any, the respective affiliations, complete addresses, telephone, FAX, and e-mail information. The title page will also present the total proposed cost, the proposed budget period, and a brief abstract of the proposed work. The title page shall also identify the specific research area of interest (from those listed by number in the ''Program Description'' in this Notice), and clearly identify that the proposal is in response to this Notice. The title page should be signed by the PI(s) and the institutional representative of the PI's organization.

2. Goals and Objectives—Identify broad project goals and quantifiable objectives.

3. Background/Introduction—State the problem and summarize existing efforts in the context of present knowledge and/or capabilities.

4. User Application Audience—Describe specifics of how the project will contribute to improving or resolving an issue with an identified primary target audience. The target audience must be explicitly stated.

5. Project Description/Methodology—Describe the specifics of the proposed project (3 pages maximum).

6. Project Partners—Identify any project partners, their respective roles, and their contributions/relationships to the proposed effort.

7. Milestones and Outcomes—List target milestones, time lines, and desired outcomes. The potential value of the proposed work to the identified target audience's needs should be identified in this section of the proposal.

8. Project Budget—Provide a detailed budget breakdown by category (and in multi-year proposed efforts, by year) and a brief narrative to provide the basis for the proposed budget.

Selection Process

A project selection panel will be convened to review and to provide recommendations on selection using the criteria published in these guidelines. Each proposal will be reviewed by at least three reviewers who are qualified to review the proposed work. These reviewers may include both Federal and non-Federal individuals. Individuals in the Oceanic Research and Applications Division, however, will be excluded from participating in the review process. Proposals will be ranked according to a score (explained below) and presented to the Selecting Official (the Chief, Oceanic Research and Applications Division) for final selection. In addition to the individual proposal rankings assigned by the panel, the Selecting Official may consider program policy factors such as balance among the prioritized research areas of programmatic interest described in the ''Program Description'' section of this Notice, and (for cooperative agreements that have substantial ORA involvement) geographic location in making a final decision.

Selection Criteria (With Weights)

All proposals will be scored using the following criteria:

1. Relevance of the Proposed Research to NESDIS and NOAA Missions (30 Points)

Does the proposed project (directly or indirectly) address a critical need? Are the project goals and objectives clear and concise? Does the proposed project have a clearly defined user audience? Are there direct ties to relevant NESDIS, NOAA, Federal, regional, state or local activities?

2. Technical Merit (25 Points)

Is the approach technically sound? Does the proposed project build on existing knowledge? Is the approach innovative?

3. Applicability and Effectiveness (25 Points)

Does the proposed work have the potential of increasing the accessibility, usability (*i.e.*, easily understood and used), and relevance of satellite observed oceanographic data and information by the identified target user community? Does the proposed work provide for flexible, early and effective opportunities for user involvement (*e.g.*, through cooperative experiments, demonstrations, or user evaluations)? Does the proposed work have the potential for long-term (lasting) value and widespread applicability? Does the proposed work include an effective mechanism by which the project's progress can be evaluated?

4. Cost Efficiency (15 Points)

Is the budget realistic and commensurate with the project needs?

5. Overall Qualifications (5 Points)

Are the proposers capable of conducting a project of the scope and scale proposed (*i.e.*, scientific, professional, facility, and administrative resources/capabilities)? Are appropriate partnerships going to be employed to achieve the highest quality content and maximal efficiency?

Selection Schedule

Proposals submitted in response to this Notice will be reviewed once during the year according to the following schedule:

Proposals due—January 17, 2000
Final Selection—Approximately March 3, 2000
Grant start date—Approximately June 1, 2000

Note: All deadlines are for receipt by ORA no later than 5:00 p.m. EST on the due date identified. All applicants are required to submit one original and two complete paper copies of (1) the signed completed proposal; and, (2) the completed and signed NOAA Grants Application Package. The Grants Application Package may be accessed on-line from the NOAA Grants Home Page at http://www.rdc.noaa.gov/grants/index/html. Paper copies of this Notice and of the NOAA Grants Package can be obtained by mail by calling Kathy LeFevre at (301) 763–8127.

Funding Availability

Specific funding available for awards in response to this Notice will be finalized after the NOAA budget for FY 2000 is authorized. Total funding available for this Notice is anticipated to be between $100,000 and $500,000. Individual awards are expected to range from a minimum of $50,000 to $150,000 on an annual basis. Successful proposals that are deemed by the selection panel to be exceptionally meritorious may be larger. There is no guarantee that sufficient funds will be available to make awards for all approved projects, nor that all research areas of interest will be supported. Publication of this Notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Applications for grants or cooperative agreements under this program announcement may be submitted in accordance with the procedures set forth in these specific guidelines by any U.S. state, territory, commonwealth, local or regional resource management agency; college or university; private industry; nonprofit organization; or cooperative research unit. Federal agencies or institutions are not eligible to receive Federal assistance under this Notice, but may be included as a participating partner(s) in the proposed work.

General Information for All Programs

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant Federal agency (prior to the proposed effective date of the award), or 25 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs, should an award not be made or funded at a level less than requested.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award or Federal Funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided:

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains a collection of information requirements subject to the Paperwork Reduction Act. The use of Standards Forms 424, 424A, 424B, 424C, 424D, SF–LLL and the name check form have been approved by OMB under the respective control numbers 0328–0043, 0348–0044, 0348–0040, 0348–0041, 0348–0042, 0348–0046 and 0651–0001.

Mary M. Glackin,

Deputy Assistant Administrator for Satellite and Information Services.

[FR Doc. 99–30721 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111799C]

Caribbean 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 Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on December 14–15, 1999.

ADDRESSES: All meetings will be held at the Caravelle Hotel, 44A, Queen Cross Street, Christiansted, St. Croix, U.S.V.I. 00820

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 99th regular public meeting to discuss the items contained in the following agenda:

Call to Order
Adoption of Agenda
Consideration of 98th Council Minutes
Executive Director's Report
Proposal for Rapid Assessment of Fish Kills
Update on Marine Conservation District
Sustainable Fisheries Act (SFA)
Change to SFA Document and Final Action by the Council
Marine Recreational Fisheries Statistics Survey
Essential Fish Habitat Amendment
Trap Impact Studies
Reef Fish Fishery Management Plan (FMP)
Subcommittee Meeting Report and Consideration of Scientific and Statistical Committee (SSC) and Advisory Panel (AP) Recommendations
Queen Conch FMP
Subcommittee Meeting Report and Consideration of SSC and AP Recommendations
Coastal Pelagics FMP (Wahoo/Dolphin)
Subcommittee Meeting Report and Consideration of SSC and AP Recommendations
Enforcement
-Federal Government
-Puerto Rico
-U.S. Virgin Islands
Administrative Committee Recommendations
Meetings Attended by Council Members and Staff
Other Business
Next Council Meeting

The Council will convene on Wednesday, December 14, 1999, from 1:00 p.m. to 5:00 p.m., through Thursday, December 15, 1999, from 9:00 a.m. until noon., approximately. The Administrative Committee will meet on Wednesday, December 14, 1999, from 5:00 p.m. to 6:00 p.m., to discuss administrative matters regarding Council operation.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, at the Council (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: November 18, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–30805 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111999A]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1226).

SUMMARY: Notice is hereby given that NMFS has received a permit application from Mr. Mike Clancy, of the New York State Department of Environmental Conservation (NYSDEC) (1226).

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number no later than 5:00pm eastern standard time on December 27, 1999.

ADDRESSES: Written comments on the application should be sent to: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713–0376. Comments will not be accepted if submitted via e-mail or the internet. The application and related documents are available for review in the following office, by appointment:

Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species is covered in this notice:

Endangered shortnose sturgeon (*Acipenser brevirostrum*).

New Application Received

As a requirement in the Atlantic States Marine Fisheries Commission's Atlantic Sturgeon Management Plan, New York State must initiate monitoring of juvenile Atlantic sturgeon in the Hudson River. While conducting this research it is a very likely and unavoidable event that shortnose will be captured in the sampling gear deployed to capture Atlantic sturgeon. The NYSDEC is applying for a permit to handle and tag any shortnose sturgeon incidentally caught in their sampling gear. The NYSDEC will work in collaboration with the U.S. Fish and Wildlife Service (permit #1051) to share biological and movement data regarding shortnose sturgeon residing in the Hudson River.

Dated: November 19, 1999.

Margaret C. Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–30806 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public Key Infrastructure (PKI) Certificate Action Form

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 25, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 or via the Internet at LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Art Purcell, Patent and Trademark Office, Office of Systems Architecture and Engineering, Crystal Park 2, 2121 Crystal Drive, Arlington, VA 22202, by telephone at (703) 308–6856, or by e-mail at art.purcell@uspto.gov.

SUPPLEMENTARY INFORMATION

I. Abstract

The Public Key Infrastructure (PKI) is a set of hardware, software, policies, and procedures that the Patent and Trademark Office (PTO) has chosen to support secure electronic communications between the PTO and its customers. The information collected by the PTO through the Certificate Action Form (PTO Form PTO–2042) is used by the PTO to authorize the creation of a digital certificate. The digital certificate enables the PTO to issue the cryptographic ''keys'' necessary to provide the applicant with a digital identity and to support encrypted communication between the applicant and the PTO. Using PKI enables the PTO to offer the option to applicants to review their patent application information, to send their patent applications, and to communicate with the PTO electronically, while preserving the integrity and confidentiality of these various actions. Both the laws governing patents and the Patent Cooperation Treaties established between the United States and the international community require that patent applications be preserved in confidence. Using PKI ensures that the patent applications are preserved in confidence because it requires that a user authenticate his or her identity through passwords or other means before it allows the user access to the encryption and digital signature services.

The PTO will use PKI to support secure communications and electronic commerce with its applicant community, international business partners, the Patent and Trademark Depository Libraries, its own employees, and support contractors. By implementing PKI, the PTO is indicating to its customers that the agency is making a major commitment to preserve the integrity of the electronic transactions. PKI can also alert the different parties involved that an electronic transaction has occurred.

The PTO is implementing PKI in a phased approach. The first phase is the pilot project for the Patent Application Information and Retrieval (PAIR) system. PAIR allows applicants secure authenticated access to their patent application information, through the use of public key cryptography mechanisms that provide strong authentication, encryption, and digital signatures.

II. Method of Collection

By mail, facsimile, or hand carry when the applicant files a Public Key Infrastructure Certificate Action Form with the PTO.

III. Data

OMB Number: 0651–XXXX.

Form Number: PTO Form PTO–2042.

Type of Review: Existing collection in use without an OMB control number.

Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions; farms; Federal, state, local or tribal government.

Estimated Number of Respondents: 6,000 responses per year.

Estimated Time Per Response: It is estimated to take approximately 10 minutes to read the instructions, gather the necessary data, and complete the Public Key Infrastructure Certificate Action Form.

Estimated Total Annual Burden Hours: 1,020 hours per year.

Estimated Total Annual Cost Burden: $525,000 (this cost is associated with the one-time download of additional software that is needed as part of the encryption process). Using the professional hourly rate of $175.00 for associate attorneys in private firms, the PTO estimates $178,500 for salary costs associated with respondents.

Title of form	PTO form No.	Estimated time for response	Estimated annual burden hours	Estimated annual responses
United States Patent and Trademark Office Certificate Action Form	PTO Form PTO–2042	0.17	1,020	6,000
Totals			1,020	6,000

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 22, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–30811 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, December 2, 1999, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Bunk Beds

The Commission will consider options concerning whether the Commission should issue a final rule addressing entrapment of children in the structure of bunk beds.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–30940 Filed 11–23–99; 3:34 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Friday, December 3, 1999, 10 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Hydrocarbons

The Commission will consider options concerning whether the Commission should issue a proposed rule to require child-resistant packaging for low-viscosity liquid hydrocarbons.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–30941 Filed 11–23–99; 3:34 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DOD.

ACTION: Notice

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the

proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 25, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under secretary of Defense (Personnel and Readiness) (Force Management Policy/Military Personnel Policy/Accession Policy), ATTN: Dr. Sharon Holcombe, 1600 Wilson Blvd., Suite 400, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 696–6912

Title, Associated Form, and OMB Control Number: Joint Recruiting Advertising Program (JRAP), OMB Number 0704–0351.

Needs and Uses: Title 10, U.S. Code, Section 503, allows the Secretary of Defense to ''conduct intensive recruiting campaigns to obtain enlistments'' in the Military Services and the Coast Guard. Advertising is a central underpinning of military recruiting campaigns. Successful advertising involves packaging information about Military Service opportunities, delivering that information to a target audience, and having that target audience positively respond. When members of the public respond, they voluntarily provide information about themselves (e.g., name, address) so that information they requested about the Armed Forces can be sent to them.

Recruitment advertisement requires two types of information collection. First, information is collected via market research to enable the Department of Defense to obtain information on the attitudes and opinions of youth or their influencers (e.g., parents). This information is obtained primarily though qualitative data collections (e.g., polls, surveys, and focus group research with youth and their influencers). The information collected becomes the foundation on which advertising messages are crafted; subsequently, draft advertising messages are further market-tested via focus group research and/or interviews.

Second, members of the public voluntarily provide information about themselves when they request information about opportunities in the Armed Forces. For example, many Armed Forces advertising messages are in print format, and have Business Reply Cards (BRCs) attached to them. The BRCs are used by youth to request additional, in-depth information about Military Service opportunities. Respondents fill out a card (e.g., name, address, social security number, etc) and mail it back to the Department of Defense.

All information collected in these efforts is done so on a voluntary basis with members of the public and data are used to (1) develop and improve advertising messages that support military recruiting efforts; (2) provide members of the public with information about the Armed Forces; and (3) provide the Military Services with lead lists for military recruiting purposes.

Affected Public: Individuals or households.

Annual Burden Hours: 4,382.

Number of Respondents: 125,797.

Responses Per Respondent: 1.

Average Burden per Response: 2.09 minutes.

Frequency: On occasion.

Summary of Information Collection

Each year, the Department of Defense collects information from young adults and their influencers (e.g., parents) in support of military recruiting efforts. First, information is collected via market research efforts that support the development and evaluation of military recruiting advertising messages. The Market research methods used are surveys, polls, interviews, and focus groups. For example, groups of youth are convened for the purpose of reviewing draft advertising messages. Second, information is voluntarily provided to the Department of Defense in response to advertising media. For example, the Department of Defense annually publishes an information folder about Reserve Officers training Corps (ROTC) Scholarships. These folders are sent to each high school guidance counselor in the country for them to use in acquainting students with ROTC scholarship opportunities. Included in these folders are Business Reply Cards that individual students can use to request additional information about ROTC scholarships. The reply cards, which the students respond to on a voluntary basis, ask for the student's name, address, high school graduation date, date of birth, phone number, whether or not they are a U.S. citizen, name of college they are planning to attend, gender and social security number. The social security number is used for tracking purposes only and the gender information is used for both tracking purposes and for use in tailoring response materials concerning military career opportunities available to women. In addition to the ROTC Scholarship folders, similar Business Reply Cards are attached to various advertising direct mail items, printed advertisements, and military information brochures. The information obtained from these cards is used to respond to requests from the general public for information about the Armed Forces and to provide the Military Services with lead lists for use in their recruiting campaigns.

Dated: November 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30730 Filed 11–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–19]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub.L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–19 with attached transmittal and policy justification.

Dated: November 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

10 November 1999

In reply refer to:
I-99/013430

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-19, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Colombia for defense articles and services estimated to cost $221 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-19

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Colombia**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 154 million
Other	$ 67 million
TOTAL	$ 221 million

(iii) **Description of Articles or Services Offered: Fourteen UH-60L BLACKHAWK helicopters (both armed and utility) with engines, two spare T700-GE-701C engines, 28 GAU-19 .50 caliber mini-gun, 28 GAU-17 7.62mm mini-gun, 14 M265 2.75 inch rocket pods, ammunition, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support.**

(iv) **Military Department: Army (UUF)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none**

(vii) **Date Report Delivered to Congress: 10 November 1999**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

Colombia - UH-60L BLACKHAWK Helicopters

The Government of Colombia has requested a possible sale of 14 UH-60L BLACKHAWK helicopters (both armed and utility) with engines, two spare T700-GE-701C engines, 28 GAU-19 .50 caliber mini-gun, 28 GAU-17 7.62mm mini-gun, 14 M265 2.75 inch rocket pods, ammunition, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support. The estimated cost is $221 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force in the war on drugs.

The proposed sale will upgrade its anti-personnel and day/night mission capability, provide for the defense of vital installations, and provide close air support for ground forces. Colombia, which already has UH-60 model helicopters in its inventory, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be United Technologies, Sikorsky Aircraft, Stratford, Connecticut. There are no offset agreements proposed in connection with this potential sale.

The number of U.S. Government personnel and contractor representatives required in-country to support the program will be determined in joint negotiations as the program proceeds through the development, production and equipment installation phases.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 99–30732 Filed 11–24–99 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: December 13, 1999.

ADDRESSES: RAND, 1700 Main Street, Santa Monica, CA 90407–2138.

PROPOSED SCHEDULE AND AGENDA: Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 9 a.m. until 5:30 p.m. on December 13, 1999. Time will be allocated for public comments by individuals or organizations.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its web site at http://www.rand.org/organization/nsrd/terrpanel; it can also be reached at (202) 296–5000 extension 5282. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Priscilla Schlegel, RAND, 1333 H Street, NW, Washington, DC 20005. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: November 18, 1999.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30731 Filed 11–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Mill Creek, Ohio Local Flood Protection Project General Reevaluation Report

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Authorized by the Flood Control Act of 1970 (PL 91–611), the objective of the Reevaluation Study and DEIS, is to identify a flood damage reduction plan that will yield a functionally, economically, and environmentally sound project to reduce damages to communities in Hamilton County, Ohio from flooding of Mill Creek and its tributaries. The DEIS will assess the potential impacts of the alternatives upon social and economic and natural resources.

FOR FURTHER INFORMATION CONTACT: Robert C. Kanzinger by phone at (502) 582–5774, facsimile at (502) 582–6734, mail at U.S. Army Engineer District, Louisville, ATTN: CELRI–PD–E (Kanzinger), P.O. Box 59, Louisville, KY 40201–0059, or email at robert.c.kanzinger@lr102.usace.army.mil

SUPPLEMENTARY INFORMATION:

1. Background

Flooding has been a chronic problem on Mill Creek for some time. Following the original authorization of the Mill Creek Local Protection Project, in 1970, a Local Cooperation Agreement (LCA) for construction of the project was executed in 1975. Construction was initiated in 1981 and suspended in 1992 with approximately 50 percent of the authorized project complete. Project construction was suspended at the direction of the Assistant Secretary of the Army for Civil Works, for the following reasons: (1) Problems in acquiring real estate and relocations for the remaining sections, (2) project costs had grown 126% since authorization, (3) likely contamination by hazardous materials from old land fills along uncompleted portions of the project, and (4) problems in operating and maintaining the completed sections.

2. Proposed Action

The Corps, in cooperation with the local sponsor, Millcreek Valley Conservancy District (MVCD), is conducting a feasibility investigation to reevaluate alternatives for flood damage reduction. This investigation proposes to reduce the flood hazards currently associated with flood flows from Mill Creek and its tributaries.

3. Action Alternatives To Be Considered

Considered alternatives include: constructed wetlands/detention areas, levees and pump stations, channel modifications, replacement or modification of railroad bridges to improve flow characteristics, and nonstructural alternatives such as automated advance warning systems and structure relocations.

4. The No Action Alternative

The consequences of taking no action will also be considered.

5. Scoping Process

a. The Corps and MVCD is asking, herein and elsewhere, for public input regarding pertinent issues that need to be addressed in the EIS. Monthly ''Fire Side Meetings'' are being held at local communities to discuss flooding issues and the Reevaluation Study. Monthly meetings began in December 1998 and will continue at least through September 1999 or longer if there is an interest. The Reevaluation Study has also been a regular agenda line item at quarterly MVCD Executive Committee Meetings since 1996, and will continue to be so. It is also a regular agenda item for quarterly Mill Creek Watershed Council (MCWC) Meetings, periodic MCWC Flood Control Subcommittee meetings, and monthly MCWC Executive Committee Meetings. A comprehensive mailing list of potentially interested parties is being assembled, including Federal, state and local agencies, and individuals. The list will be used to notify interested parties of opportunities to provide input to the scoping process.

b. Pertinent issues identified, so far, include appropriate levels and alternatives for flood damage reduction, as well as potential effects of the alternatives on water quality, vegetation and wildlife resources, special status species, cultural resources, social and economic resources, esthetics and recreation.

c. A 45-day public review period will be provided for individuals and agencies to review and comment on the Draft Environmental Impact Statement (DEIS). All interested parties should respond to this notice and provide a current address if they wish to be notified of the date of scoping meetings and for receipt of the DEIS for review and comment.

6. Availability

The DEIS is expected to be available for public review and comment approximately June, 2000. Notice of availability will be published in the **Federal Register** as well as mailed to everyone on the mailing list.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–30743 Filed 11–24–99; 8:45 am]

BILLING CODE 3710–41–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 25, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 22, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Title: Indian Education Formula Grant Program Application.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 1,270; Burden Hours: 22,766.

Abstract: The application for funding under the Indian Education Formula Grant Program to Local Educational Agencies is used to determine applicant eligibility and the amount of award for projects funded.

Requests for copies of this information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–30751 Filed 11–24–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–002]

PG&E Gas Transmission, Northwest Corporation; Notice of Resubmission of Tariff Sheets

November 19, 1999.

Take notice that on November 12, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, with an effective date of October 30, 1999:

Substitute Fifth Revised Sheet No. 68
Substitute Original Sheet No. 68A
Third Revised Sheet No. 69
Substitute First Revised Sheet No. 81.01a
Substitute Third Revised Sheet No. 128

PG&E GT–NW states that these tariff sheets are being filed in compliance with the Commission's October 28, 1999 Order in this docket.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, interested state regulatory agencies, and all parties on the Commission's official service list for this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson. Jr.,

Acting Secretary.

[FR Doc. 99–30749 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

November 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 10615–020.

c. *Date Filed:* November 5, 1999.

d. *Applicants:* Wolverine Power Supply Cooperative Inc. (Wolverine of transferor) and the Tower Kleber Limited Partnership (Tower Kleber or transferee).

e. *Name of Project:* Tower and Kleber.

f. *Location:* On the Black River, in Cheboygan County, Michigan. The project does not utilize federal or tribal lands.

g. *Filed pursuant to:* 18 CFR 4.200.

h. *Applicants Contacts:* For transferor—Mr. Stephen J. Videto, General Counsel, Wolverine Power Supply Cooperative, Inc., 10125 W. Watergate Road, P.O. Box 229, Cadillac, MI 49601.

For transferee—Mr. Frank O. Christie, President, Franklin Hydro, Inc., 8 East Main Street, Malone, NY 12953.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, or e-mail address: Thomas.Papsidero@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* December 27, 1999.

All documents (original and eight copies) should be field with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE, Washington, DC 20426.

Please include the project number (10615–020) on any comments or motions filed.

k. *Description of Transfer:* Wolverine requests approval to transfer its license to Tower Kleber.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30746 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11656]

Lake Dorothy Hydro Inc.; Notice Soliciting Scoping Comments

November 19, 1999.

The Federal Energy Regulatory Commission (Commission) regulations allow applicants to prepare their own environmental Assessment (EA) for hydropower projects and file it with the Commission along with their license application as part of the applicant-prepared EA (APEA) process. Lake Dorothy Hydro Inc. (LDHI) received approval from the Commission to prepare an EA for the proposed Lake Dorothy Hydroelectric Project under Project No. 11556. Since that time LDHI has received a new Preliminary Permit for the project (Project No. 11656).

LDHI held two scoping meetings on April 24, 1996, pursuant to the National Environmental Policy Act (NEPA) of 1969, to identify the scope of environmental issues that should be analyzed in the EA. In addition, a site visit was held on April 23, 1996. At the scoping meetings, LDHI: (1) Summarized the environmental issues tentatively identified for analysis in the EA; (2) outlined the resources they believed would not require a detailed analysis; (3) identified reasonable alternatives to be addressed in the EA; (4) solicited from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encouraged statements from experts and the public on issues that should be analyzed in the EA.

Scoping Document 1 (SD1) and 2 (SD2) were issued on September 9, 1996, and December 17, 1996, respectively. Since then, LDHI has made several changes to the project as earlier proposed. Because the parties have previously met to discuss the scoping issues and a site visit has been conducted, LDHI is not proposing another scoping meeting and site visit. Instead, LDHI is conducting paper scoping to solicit any new issues that should be addressed for the slightly different project configuration. The new scoping document is Scoping Document 3 (SD3). Copies of all three scoping documents can be obtained by calling Ms. Sue Tinney at (970) 944–1020 or E-mail tinney@rmi.net.

All interested individuals, organizations, and agencies are invited and encouraged to provide comment of the SD3 to identify and clarify the scope of environmental issues that should be analyzed in the EA.

Written comments must be submitted by December 18, 1999, and should be mailed to: Mr. Corry V. Hildenbrand, President, Lake Dorothy Hydro, Inc., 5601 Tonsgard Court, Juneau, AK 99801. All correspondence should show one of the following captions on the first page.

Scoping Comments, Lake Dorothy Hydroelectric Project, Project No. 11656, Alaska.

For further information please contact Sue Tinney at (970) 944–1020, or E-mail tinney@rmi.net, or Mike Henry of the Commission at (503) 944–6762, or E-mail mike.henry@ferc.fed.us.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30747 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

November 19, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 710–021.

c. *Date Filed:* November 8, 1999.

d. *Applicants:* Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership.

e. *Name and Location of Project:* The Shawano Hydroelectric Project is on the Wolf River in Shawano County, Wisconsin, partially within the Menominee Indian Reservation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Mr. Patrick Womersley, Wisconsin Power and Light Company, 222 West Washington Avenue, Madison, Wisconsin 53703, (608) 252–4860 and Mr. Nelson Turcotte, Northwoods Hydropower, Inc., 124 Riverside Drive, Kapuskasing, Ontario, Canada, P5N 1B6, (705) 335–4098.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

i. *Deadline for filing comments and or motions:* December 27, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426.

Please include the project number (P–710–021) on any comments or motions filed.

j. *Description of Proposal:* The applicants propose a transfer of the license for Project No. 710 from Wisconsin Power and Light Company to Wolf River Hydro Limited Partnership in connection with the proposed sale of the project.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30748 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

November 19, 1999.

This constitutes notice, in accordance with 18 CFR 285.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 187 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. CP98–540–000, 11/5/99, Carolann Garafola, Mayor
2. Project No. 2188–044, 11/16/99, John C. Van Daveer
3. Project No. 1988, 11/9/99, Pattie Leppert-Slack
4. CP99–94–000, 11/9/99, Wayne E. Daltry
5. CP98–150–000, 11/9/99, William H. Gute
6. CP00–14–000, 11/9/99, Ronald A. Krizman
7. Project No. 10942–001, 11/10/99, Gerry A Jackson
8. Project No. 2659–011, 11/3/99, Gary S. Miller
9. ER99–4462–000, 11/9/99, Hon. Gray Davis
10. Project No. 2609–013, 11/16/99, Judith M. Stolfo
11. ER99–4462–000, 11/10/99, Hon. Anna G. Eshoo, Hon. Jerry Lewis, Hon. Henry A. Waxman, Hon. James E. Rogan, Hon. Ron Packard, Hon. Sam Farr, Hon. Lois Capps, Hon. Brian P. Bilbray

David P. Boergers,

Secretary.

[FR Doc. 99–30750 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00632; FRL–6392–3]

Nominations to the FIFRA Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel (SAP) established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to FIFRA, dated October 25, 1988. Public comment on the nominations is invited, as these comments will be used to assist the Agency in selecting nominees to the Panel.

DATES: Comments, identified by docket control number OPP–00632, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00632 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Laura E. Morris, Designated Federal Official, FIFRA Scientific Advisory Panel (7101C), Office of Science Coordination and Policy, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 117S, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA; telephone number: (703) 305–5369/308–6212; e-mail address: morris.laura@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed above under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00632. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00632 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk formatted as described below. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00632. Electronic comments may also be filed online at many Federal Depository Libraries.

II. Background

Amendments to FIFRA enacted November 28, 1975, include a requirement under section 25(d) that notices of intent to cancel or reclassify pesticide regulations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions. The Panel shall also make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists.

III. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued (dated October 2, 1998) in accordance with the requirements of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (5 U.S.C. App. I). The qualifications of members as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No persons shall be ineligible to serve on the Panel by reason of their membership

on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). The Deputy Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR part 3, subpart F, Standards of Conduct for Special Government Employees, which include rules regarding conflicts of interest. Each nominee selected by the Deputy Administrator, before being formally appointed, is required to submit a Confidential Statement of Employment and Financial Interests, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Deputy Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, educational background, employment history, and scientific publications. The Agency is required to publish in the **Federal Register** the name, address, and professional affiliations of each nominee and to seek public comment on the nominees.

B. Applicability of Existing Regulations

With respect to the requirements of section 25(d) of FIFRA that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special government employees, which include advisory committee members, will apply to the members of the Scientific Advisory Panel. These regulations appear in 40 CFR part 3, subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d) of FIFRA, EPA, in April 1999, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill two vacancies occurring on the Panel. The Agency requested nomination of experts in the fields of veterinary pathology, toxicology and oncology. NIH responded by letter dated May 3, 1999, enclosing a list of 12 nominees; NSF responded by letter dated May 11, 1999, with a list of 13 nominees.

IV. Nominees

The following are the names, addresses, and professional affiliations of nominees being considered for membership on the FIFRA Scientific Advisory Panel, along with selected biographical data. The Agency will consider the nominees in making selections to fill two vacancies occurring during the calendar year, 2000.

A. Nominees for the Field of Veterinary Pathology

1. *Nominee*: Norman H. Altman, V.M.D., Vice Provost for Research, Office of Research, University of Miami School of Medicine, Miami, FL.

Expertise: Toxicology, pathology, epidemiology, experimental studies on animals and humans.

Education: B.S., Pennsylvania State University, Philadelphia, PA, 1959; V.M.D. (Veterinary Medicine), University of Pennsylvania, Philadelphia, PA, 1963; Military Service, Captain, 1968; Pathology Training Program, U.S. Army Medical Research Laboratory, Edgewood Arsenal, MD, 1968; Postdoctoral Fellows (Pathology; Laboratory Animal Medicine), Johns Hopkins University School of Medicine, Baltimore, MD, 1970.

Professional experience: Board Certified Veterinary Pathologist; has been involved in extensive bioassays for the National Cancer Institute; served as the Principal Investigator for numerous large-scale grants of the National Institutes of Health; served as Director of the Sylvester Comprehensive Cancer Center, National Cancer Institute; served on National Science Foundation and National Institutes of Health committees and councils; served as a consultant to Federal government agencies, such as the National Institutes of Health, National Academy of Sciences, and the Food and Drug Administration.

2. *Nominee*: Sharon M. Black, D.V.M., Ph.D., Diplomate ACVP, Associate Professor, Diagnostic Laboratory Services, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS.

Expertise: Veterinary anatomic pathology, immunology.

Education: B.S. (Biology), University of Southern Mississippi, Hattiesburg, MS, 1981; D.V.M., College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1985; Ph.D. (Veterinary Anatomic Pathology), Veterinary Medical Sciences, College of Veterinary Medicine, Mississippi State University, MS, 1994.

Professional experience: Associate Veterinarian, Animal Clinic of Oxford, Oxford, MS, 1985–1986; Laboratory Veterinarian, Veterinary Diagnostic and Investigational Laboratory, University of Georgia, Tifton, GA, 1987–1988; Graduate Assistant, Department of Veterinary Pathology, University of Georgia, Athens, GA, 1989–1990; Laboratory Veterinarian/Anatomic Pathologist, Athens Veterinary Diagnostic Laboratory, University of Georgia, Athens, GA, 1990; Graduate Assistant/Anatomic Pathologist, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1991–1993; Postdoctoral Research Assistant, Research Program, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1993–1994; Assistant Professor/Anatomic Pathologist, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1994–1999; Associate Professor/Anatomic Pathologist, Laboratory Services and Field Services Program, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1999-present.

Research: Extensive research activities in the area of veterinary anatomic pathology.

3. *Nominee*: Gregory Bradley, D.V.M., Diplomate ACVP, Assistant Research Specialist, University of Arizona, Veterinary Diagnostic Laboratory of Arizona, West Campus Agricultural Center, Tucson, AZ. (biographical information not provided)

Expertise: Veterinary pathology; wildlife disease and diseases of the skin.

4. *Nominee*: Tracie E. Bunton, D.V.M., Ph.D., Diplomate ACVP, Principal Research Scientist, Life Sciences Enterprise, DuPont Pharmaceuticals Company, Safety Assessment, Newark, DE.

Expertise: Veterinary pathology.

Education: B.S., D.V.M., Michigan State University, School of Veterinary Medicine, East Lansing, MI, 1972–1977; Ph.D., Department of Comparative Pathology, School of Veterinary Medicine, University of California, Davis, CA, 1978–1982; Residency in Nonhuman Primate Pathology, California Regional Primate Research Center, Davis, CA, 1979–1982.

Professional experience: Small Animal Practitioner, Easthaven Animal Hospital, Ann Arbor, MI, 1977–1978; Assistant Professor, Department of Pathology, Michigan State University, East Lansing, MI, 1982–1984; Assistant Professor, Division of Comparative Medicine, Department of Pathology, Johns Hopkins University School of Medicine, Baltimore, MD, 1984–1990; Faculty, Graduate Program in Cellular and Molecular Medicine, Johns Hopkins University School of Medicine, 1994–1999; Associate Professor, Division of Comparative Medicine, Department of Pathology, Johns Hopkins University School of Medicine, Baltimore, MD,

1990–1999; Principal Research Scientist, DuPont Pharmaceutical Company, Safety Assessment, Newark, DE, July 1999 - present.

Research: Extensive research in the area of veterinary pathology.

5. *Nominee*: John M. Cullen, V.M.D., Ph.D., Diplomate ACVP, Professor of Pathology, College of Veterinary Medicine, Department of Microbiology, Pathology, and Parasitology, North Carolina State University, Raleigh, NC.

Expertise: Veterinary pathology.

Education: A.B. (Biology), University of Pennsylvania, Pittsburgh, PA, 1971; V.M.D., University of Pennsylvania, 1975; Ph.D., Comparative Pathology, University of California at Davis, Davis, CA, 1985.

Professional experience: Resident, Anatomic Pathology, School of Veterinary Medicine, University of California, Davis, CA, 1979–1983; Senior Resident in Anatomic Pathology, Veterinary Medical Teaching Hospital, University of California, Davis, CA, 1983-1984; Assistant Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1984–1989; Toxicology Faculty, North Carolina State University, 1988-present; Associate Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1989–1994; Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1994-present.

Research: Research interests in the fields of hepatic pathology, animal models of viral hepatitis and mycotoxicology.

6. *Nominee*: Michael R. Elwell, D.V.M., Ph.D., Diplomate ACVP, Pathologist, Covance Laboratories Inc., Vienna, VA.

Expertise: Toxicologic pathology.

Education: D.V.M., Kansas State University, 1972; Veterinary Pathology Preceptorship, United States Army Medical Research Institute of Infectious Diseases (USAMRIID), 1975–1978; Diplomate, American College of Veterinary Pathologists, 1978; Ph.D., University of Kansas, 1982.

Professional experience: Research Investigator, Animal Assessment Division, USAMRIID, Ft. Detrick, MD, 1972–1975; Pathology Preceptor, Pathology Branch, USAMRIID, Ft. Detrick, MD, 1975–1978; Chief, Medical Research Section, Department of Veterinary Medicine, Armed Forces Research Institute of Medical Sciences (AFRIMS), Bangkok, Thailand, 1981–1984; Staff Pathologist, Walter Reed Army Institute of Research, 1984–1985; Staff Pathologist, Toxicologic Pathology, Chemical Pathology Branch, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park (RTP), NC, 1987–1993; Head, Pathology Group, Environmental Toxicology Program, NIEHS, RTP, NC, 1993–1995; Director, Virginia Laboratory, Experimental Pathology Laboratories, Herndon, VA, 1995–1998; Principal Pathologist, Pathology Department, Covance Laboratories, Inc., Vienna, VA, 1998-present. Author/coauthor of more than 100 manuscripts and book chapters; editorial board for Environmental Health Perspectives; member Society of Toxicologic Pathology; member of panels/committees/review groups for Food and Drug Administration, World Health Organization, National Institutes of Health, Centers for Disease Control, National Institute of Environmental Health Sciences, Environmental Protection Agency, International Agency for Research on Cancer, International Life Sciences Institute and the Office of the Surgeon General.

Research: Toxicologic pathology, design, conduct, and evaluation of toxicity and carcinogenicity studies for safety evaluation/hazard assessment, animal models of infectious diseases.

7. *Nominee*: Fletcher F. Hahn, D.V.M., Ph.D., Diplomate ACVP, Senior Scientist, Lovelace Respiratory Research Institute, Albuquerque, NM.

Expertise: Veterinary pathology.

Education: B.S. (Biological Sciences), Washington State University, 1964; D.V.M. (Veterinary Medicine), Washington State University, 1964; Ph.D. (Comparative Pathology), University of California, Davis, CA, 1971.

Professional experience: Veterinary Laboratory Officer, U.S. Army, Division of Nuclear Medicine, Walter Reed Army Institute of Research, Washington, DC, 1964–1966; National Institutes of Health Postdoctoral Fellowship, University of California, Davis, CA, 1966–1970; Experimental Pathologist, Inhalation Research Institute, Albuquerque, NM, 1971–1996; Supervisor, Pathology Group, Inhalation Toxicology Research Institute, Albuquerque, NM, 1980–1996; Senior Scientist, Lovelace Respiratory Research Institute, Albuquerque, NM, 1996-present.

Research: Health effects on inhaled environmental contaminants, studied the morphologic changes and pathogenesis of diseases in laboratory animals resulting from inhaled materials; the focus has been on pulmonary inflammation, fibrosis, and neoplasis resulting from inhaled chemical vapors, oxidant gases, metallic particles, fibers, and radioactive materials; has authored or co-authored over 245 publications in these areas of interest. Study pathologist on studies that included carcinogenicity bioassays of inhaled materials, and safety studies of laser diodes for treatment of benign prostatic hypertrophy, inhaled hormones, and inhaled polyacrylics; research also in the area of toxicologic pathology.

8. *Nominee*: Jack R. Harkema, Professor, Michigan State University. (biographical information not provided)

Research: Respiratory pathology; inhalation toxicology; mechanisms of airway epithelial injury, adaptation and repair after exposure to air pollutants; toxicologic pathology; image analysis; morphometry; immunohistochemistry; upper airway toxicology and pathology; comparative pathology; airway inflammation; scientific and medical illustration.

9. *Nominee*: Wanda Haschek-Hock, Professor and Head, College of Veterinary Medicine, Department of Veterinary Pathology, University of Illinois at Urbana-Champaign, Urbana, IL.

Expertise: Veterinary pathology.

Education: B.V.Sc., University of Sydney; Ph.D., Cornell University; Diplomate, American College of Veterinary Pathologists; Diplomate, American Board of Toxicology.

Research: Mechanisms of respiratory and hepatic toxicity, natural toxins, mycotoxicoses, food safety, toxicologic pathology. Currently, the major focus of the laboratory is on fumonisins, a class of mycotoxins produced by Fusarium moniliforme that infests corn.

10. *Nominee*: Paul C. Stromberg, D.V.M., Ph.D., Diplomate ACVP, Professor of Veterinary Pathology, College of Veterinary Medicine, Department of Veterinary Biosciences, The Ohio State University Health Sciences Center.

Expertise: Veterinary pathology.

Education: D.V.M., Ph.D., Ohio State University, Columbus, Ohio; Diplomate, American College of Veterinary Pathologists.

Professional experience: Clinical Service: Necropsy, surgical biopsies; Professional Service: American College of Veterinary Pathologists Examination Committee, CL Davis Faculty of Discussants Participant, Member of Ohio State University Comprehensive Cancer Center Pathology Working Groups, Continuing Education in Veterinary Pathology; Administrative Service: Department Promotion and Tenure Committee Member, College Research Day Committee Member, Sisson Hall Planning Committee, College Curriculum Committee Member,

Faculty Senate (alternate), Council of Education.

Research: Cancer Detection and Immunotherapy; Gene Therapy, Toxicologic Pathology, Laboratory Animal Diseases, Dermatopathology.

11. *Nominee*: Brian A. Summers, B.V.Sc., Ph.D., M.R.C.V.S., Professor, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY.

Expertise: Veterinary pathology, neuropathology.

Education: B.V.Sc., University of Melbourne, 1969; M.Sc., University of London, 1972; Ph.D., Cornell University, Ithaca, NY, 1980.

Professional experience: Visiting Pathologist, Ministry of Agriculture, Fisheries and Food, Central Veterinary Laboratory, Weybridge, England, 1972; Graduate Research Assistant, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1976–1980; Assistant Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1980–1986; Visiting Scholar, St. Edmund's College, University of Cambridge, Cambridge, England, 1987–1988; Associate Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1986–1996; Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1996-present.

12. *Nominee*: Jerrold M. Ward, D.V.M., Ph.D., Chief, Veterinary and Tumor Pathology Section, Office of Laboratory Animal Resources, National Cancer Institute, Frederick, MD.

Expertise: Veterinary pathology.

Education: D.V.M., Cornell University, Ithaca, NY, 1966; Ph.D., Comparative Pathology, University of California, Davis, CA, 1970.

Professional experience: Supervisory Veterinary Medical Officer (Veterinary Pathologist), Laboratory of Toxicology, Division of Cancer Treatment, National Cancer Institute (NCI), National Institutes of Health (NIH), Bethesda, MD, 1974–1977; Veterinary Medical Officer (Veterinary Pathologist), Tumor Pathology Branch, Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, NCI, NIH, Bethesda, MD, 1977–1978; Chief, Tumor Pathology, National Toxicology Program, NCI, NIH, Bethesda, MD, 1979–1981; Chief, Tumor Pathology and Pathogenesis Section, Laboratory of Comparative Carcinogenesis, NCI, Frederick, MD, 1981–1992; Chief, Veterinary and Tumor Pathology Section, Office of Laboratory Animal Science, Office of the Director, NCI and Office of Animal Resources, Division of Basic Sciences, National Cancer Institute, Frederick, MD, 1992-present.

B. Nominations in the Field of Toxicology and Oncology

1. *Nominee*: Bruce N. Ames, Director, National Institute of Environmental Health Sciences Center, Professor of Biochemistry and Molecular Biology, University of California, Berkeley, CA.

Expertise: Mechanisms of aging. Mitochondrial decay in aging. Oxidants and antioxidants in DNA damage. Micronutrient deficiencies and DNA damage. Chronic inflammation and Cancer.

Education: B.A. (Chemistry), Cornell University, Ithaca, NY, 1950; Ph.D. (Biochemistry), California Institute of Technology, Pomona, CA, 1953.

Professional experience: Postdoctoral Fellow (U.S. Public Health Service), National Institutes of Health, 1953–1954; Biochemist, National Institutes of Health, 1954–1960; National Science Foundation, Senior Fellow, F.H.C. Crick Laboratory, Cambridge, England; F. Jacob Laboratory, Paris, France, 1961; Chief, Section of Microbial Genetics, Laboratory of Molecular Biology, National Institutes of Health, 1962–1967; Chairman, Biochemistry and Molecular Biology, University of California, Berkeley, 1983–1989; Professor, Biochemistry and Molecular Biology, University of California, Berkeley, 1968-present; Director, National Institute of Environmental Health Sciences Center, University of California, Berkeley, 1979-present.

Research: Identifying agents that can damage human DNA and the consequences for aging and cancer; endogenous oxidants and defenses against them; mutagenesis and carcinogenesis.

2. *Nominee*: Marshall W. Anderson, Ph.D., Director and Professor, Department of Environmental Health, College of Medicine, University of Cincinnati, Cincinnati, OH.

Expertise: Toxicology, carcinogenicity, mathematics.

Education: B.S. (Chemistry, Math), Emory and Henry College, Emory, VA, 1961; Ph.D. (Mathematics), University of Tennessee, Knoxville, TN, 1966.

Professional experience: Assistant Professor, Department of Mathematics, University of Tennessee, 1966–1967; Member of Technical Staff, Bell Telephone Laboratories, 1967–1969; Postdoctorate Fellow, Biomathematics Department, North Carolina State University, 1969–1971; Senior Staff Fellow, Biometry Branch, NIEHS, Research Triangle Park, NC, 1971–1974; Senior Scientist, Laboratory of Pharmacokinetics and Pharmacology, NIEHS, Research Triangle Park, NC, 1975–1984; Head, Molecular Toxicology Section, Laboratory of Biochemical Risk Analysis, DBRA, NIEHS, Research Triangle Park, NC, 1984–1988; Chief, Laboratory of Molecular Toxicology, DBRA, NIEHS, Research Triangle Park, NC,1989–1993; Director of Research, Cancer Research Institute, St. Mary's Hospital, Grand Junction, CO, 1993–1996; Director and Professor, Department of Environmental Health, College of Medicine, University of Cincinnati, Cincinnati, OH, 1996-present.

Research: Role of oncogenes and tumor supressor genes in tumorigenesis, especially in lung cancer; identification of susceptibility genes in human and rodent lung tumor development; early detection of lung cancer; mechanisms of chemical carcinogenesis; examination of synergistic interactions between environmental toxicants based on biological mechanisms of actions and the impact of these interactions on risk estimation to human health from exposure to toxicants; environmental genetics to investigate the impact of genetic diversity on the response of the individual to toxic environmental agents.

3. *Nominee*: John R. Bucher, Ph.D., Deputy Director, Environmental Toxicology Program, National Institute of Environmental Health Sciences, Research Triangle Park, NC.

Expertise: Design and Interpretation of Chronic Rodent Bioassays, Identification of Human Health Hazards through the National Toxicology Program (NTP) Bioassay Program, NTP Toxicity and Carcinogenesis Technical Reports, NTP Report on Carcinogens.

Education: B.A. (Biology), Knox College; M.S. (Biochemistry), University of North Carolina; Ph.D., University of Iowa, NIH Postdoctoral Fellow, Department of Biochemistry and Center for Environmental Toxicology, Michigan State University.

Professional experience: Deputy Director, National Institute of Environmental Health Sciences, National Toxicology Program, 1983 to present.

Research: Characterization of the toxic and carcinogenic potential of substances of interest to NTP, examination of strategies to characterize the toxicity and carcinogenicity of chemicals using non-traditional methods, including genetically modified mice.

4. *Nominee*: Gary P. Carlson, Ph.D., Professor of Toxicology and Associate

School Head, School of Health Sciences, Purdue University, West Lafayette, IN.

Expertise: Pharmacology, toxicology.

Education: B.S. (Chemistry), St. Bonaventure University, Bonaventure, NY, 1965; Ph.D. (Pharmacology), University of Chicago, Chicago, IL, 1969.

Professional experience: Assistant Professor of Pharmacology, Department of Pharmacology and Toxicology, University of Rhode Island, 1969–1974; Associate Professor of Pharmacology - Department of Pharmacology and Toxicology, University of Rhode Island, 1974–1975; Adjunct Associate Professor of Pharmacology, Department of Pharmacology and Toxicology, University of Rhode Island, 1975–1979; Associate Professor of Toxicology, Department of Pharmacology and Toxicology, Purdue University, 1975–1980; Adjunct Professor of Pharmacology and Toxicology, Indiana University School of Medicine (Lafayette Center), 1982-present; Professor of Toxicology, Department of Pharmacology and Toxicology, School of Pharmacy, Purdue University, 1980–1996, Associate Head, 1983–1992; Department of Medicinal Chemistry and Molecular Pharmacology, 1996-present; Supervisor of Laboratory Animal Facility, 1994–1996; Professor of Toxicology, School of Health Sciences, Purdue University, 1995-present; Associate Head 1997-present.

Research: Toxicology, pharmacology.

5. *Nominee*: Isaiah J. Fidler, The University of Texas, M.D. Anderson Cancer Center, Department of Cell Biology, Houston, TX. (biographical information not provided)

Expertise: Carcinogenicity.

Research: Cancer metastasis, angiogenesis, macrophage biology, immunotherapy.

6. *Nominee*: Donald M. Fry, Ph.D., Research Physiologist, Department of Animal Science, University of California at Davis, Davis, CA.

Expertise: Physiology, toxicology. Technical expert on the effects of oil spills on birds, with field and laboratory research on reproduction and histopathology of petroleum exposure; technical expert for the United States on the DDT and PCB contamination of the Southern California Bight, Montrose Chemical Company and discharge from LA County outfalls.

Education: B.A. (Zoology), University of California, Davis, CA, 1965; Ph.D. (Animal Physiology), University of California, Davis, CA, 1971.

Professional experience: Twenty-eight years of post-graduate independent collaborative research, publication and teaching physiology and toxicology with emphasis on pollution effects to wildlife, effects of oil spills on birds, and laboratory and population effects of endocrine disrupting pollutants on birds. Participation in critical reviews of endocrine research, as a member of the National Academy of Sciences Panel on hormone active agents and a U.S. representative to the Organization for Economic Cooperation and Development (OECD) panels on avian toxicology and endocrine modulators. Director, Center for Avian Biology, University of California, Davis, CA, 1995–1998. Research Physiologist, Department of Animal Sciences, University of California, Davis, CA, 1998-present.

Research: Extensive research in the areas of avian physiology and toxicology.

7. *Nominee*: Michael Gallo, Environmental and Occupational Health Science Institute, Rutgers University, Piscataway, NJ. (biographical information not provided)

8. *Nominee*: Lois S. Gold, Ph.D., Director, Carcinogenic Potency Project, University of California, Berkeley, CA, Senior Scientist, Lawrence Berkeley National Laboratory.

Expertise: Toxicology, carcinogenicity.

Education: A.B., Goucher College, Towson, MD, 1963, University of Geneva, Switzerland, 1961–1962; Ph.D., Stanford University, Stanford, CA, 1967; Postdoctoral Fellow, System Development Corporation, Santa Monica, CA, 1967–1968.

Professional experience: Lecturer, Graduate School of Public Policy and Department of Political Science, University of California, Berkeley, 1968–1973; Senior Fellow, Carnegie Commission on the Future of Higher Education, Berkeley, 1970–1973; Specialist, Department of Biochemistry, University of California, Berkeley, 1978–1980; Senior Scientist, Lawrence Berkeley National Laboratory, Berkeley, 1981-present; Director of Carcinogenic Potency Project, National Institute of Environmental Health Sciences (NIEHS) Environmental Health Sciences Center, University of California, Berkeley, CA, 1985-present.

Research: Environmental Health Sciences Center: Carcinogenic Potency Database Project; Interspecies Extrapolation and Risk Assessment in Carcinogenesis; Research in disease prevention; Testimony, Committee on Science, U.S. House of Representatives, ''The Science of Risk Assessment: Implications for Federal Regulation,'' Ad hoc panel of expert reviewers, National Toxicology Program; Testimony to U.S. Senate, Hearing on Environmental Risk Factors for Cancer, Comments on Proposed Cancer Risk Assessment Guidelines to U.S. Environmental Protection Agency, U.S. Food and Drug Administration.

9. *Nominee*: Margaret L. Kripke, Vice President for Academic Programs, University of Texas, M.D. Anderson Cancer Center, Houston, TX. (biographical information not provided)

Expertise: Ultraviolet light carcinogenesis; ultraviolet-induced immune suppression.

10. *Nominee*: Michael I. Luster, Ph.D., Chief, Toxicology and Molecular Biology Branch, Health Effects Laboratory Division, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, Morgantown, WV.

Expertise: Toxicology and molecular biology, Applied and preventive, multifaceted laboratory-based research into the causes, mechanisms, prevention and control of adverse health effects due to workplace exposures; program areas include neuroscience, dermatology, molecular carcinogenesis, inflammation, molecular biomarkers, and immunology.

Education: B.A. (Biology), University of Massachusetts, Amhurst, MA, 1969; M.S. (Microbiology), Loyola University of Chicago, Chicago, IL, 1972; Ph.D. (Microbiology/Immunology), Loyola University of Chicago, Chicago, IL, 1974.

Professional experience: Staff Fellow, National Institute of Environmental Health Sciences, National Institutes of Health, 1976–1979; Research Scientist, National Institute of Environmental Health Sciences, National Institutes of Health, 1979–1981; Head, Immunotoxicology Group, STB, National Institute of Environmental Health Sciences, National Institutes of Health 1981–1988; Section Head, Environmental Immunology and Neurobiology, National Institute of Environmental Health Sciences, National Institutes of Health, 1988–1995; Chief, Toxicology and Molecular Biology Branch, Health Effects Laboratory Division, National Institute for Occupational Safety and Health, 1995-present.

Research: Effects of environmental and occupational agents on the immune system including applied research (development of methods and mathematical models to minimize uncertain ties in risk assessment) and basic research (changes in cytokines and chemokine expression as early indicators of toxicity and their activation by nuclear transcription factors).

11. *Nominee*: Edgar M. Moran, M.D., Professor of Medicine, University of California, Irvine; Chair, Cancer Program, Veterans Administration, Long Beach Healthcare System, Long Beach, CA.

Expertise: Pathology, oncology.

Education: B.S., National College ''St. Sava,'' Bucharest, 1946; M.D., University of Bucharest School of Medicine, Romania, 1946–1952.

Professional experience: Chief, Section of Hematology-Oncology, Veterans Administration Medical Center, Long Beach, CA, 1978–1992; Associate Director, UCI Cancer Center, 1988–1990; Professor of Medicine, University of California, Irvine, CA; Chair, Cancer Program, Veterans Administration Long Beach Healthcare System, Long Beach, CA, 1978-present.

Research: Environmental pathology; ecological effects on the structure and function of cells and tissues, with an emphasis on the environmental effects on carcinogenesis.

12. *Nominee*: Stephen M. Roberts, Ph.D., Program Director, Center for Environmental and Human Toxicology; Professor, Department of Physiological Sciences, College of Veterinary Medicine, Department of Pharmacology and Therapeutics, College of Medicine, University of Florida, Gainesville, FL.

Expertise: Toxicology.

Education: B.S. (Pharmacy), College of Pharmacy, Oregon State University, Corvallis, OR, 1968–1973; Ph.D., Department of Pharmacology, College of Medicine, University of Utah, Salt Lake City, UT, 1973–1977; Postdoctoral Fellow, Department of Pharmaceutics, School of Pharmacy, National Institutes of Health, State University of New York at Buffalo, Amherst, NY.

Professional experience: College of Pharmacy, University of Cincinnati; College of Medicine, University of Arkansas for Medical Sciences; Chairman, Florida Risk-Based Priority Council; Director, Center for Environmental and Human Toxicology, University of Florida, Gainesville, FL; Professor, Department of Physiological Sciences, College of Veterinary Medicine, Department of Pharmacology and Therapeutics, College of Medicine, Gainesville, FL. Teaches graduate courses in general toxicology, advanced toxicology, risk assessment and issues in the responsible conduct of research, University of Florida. Provides advice to the Florida Department of Environmental Protection on issues relative to toxicology and risk assessment.

Research: Research program funded by the National Institutes of Health to examine mechanisms of toxicity, primarily involving the liver and immune system.

13. *Nominee*: Michael Smolen, Ph.D., Senior Conservation Scientist, Wildlife and Contaminants Program, World Wildlife Fund, Washington, DC.

Expertise: Ecology, cytogenetics, population biology, toxicology.

Education: M.S. (Mammal Ecology), Idaho State University; M.A. (Museum Sciences), Texas Tech University; Ph.D. (Cytogenetics, Molecular Genetics, Toxicology), Department of Wildlife and Fisheries Sciences, Texas A&M University.

Professional experience: Has published 22 peer reviewed papers in the fields of ecology, population biology, natural history of mammals, cytogenetics and toxicology. Conducted faunal surveys in North America, South America, and Africa while working as a curatorial assistant in the Section of Mammals at Carnegie Museum of Natural History, Pittsburgh, PA. Currently engaged in a wide range of studies with collaborators in academia, most of which address the endocrine disrupting effects of synthetic chemicals on wildlife. Works collaboratively with outside scientific researchers and oversees database development and computer support.

Research: Ecology, population biology, natural history of mammals, cytogenetics, toxicology, endocrine disrupting effects of synthetic chemicals on wildlife.

List of Subjects

Environmental protection.

Dated: November 17, 1999.

Steven Galson,

Director, Office of Science Coordination and Policy, Office of Pesticide Programs.

[FR Doc. 99–30784 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6248–5)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 08, 1999 Through November 12, 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, 1999 (63 FR 17856).

Draft EISs

ERP No. D–BLM–J67028–CO Rating EC2, North Fork Coal Program, Approval of Two Lease-By-Applications (LBA) and Exploration License for Iron Point and Elk Creek Coal Leases, Delta and Gunnison County, CO.

Summary: EPA expressed environmental concerns about the adequacy of mitigation measures and the means to implement the measures. EPA believes that the final EIS needs to document the full range of mitigation measures that can be used to off-set adverse impacts.

ERP No. D–FHW–B40090–ME Rating EC2, Augusta River Crossing Study, To Reduce Traffic Deficiences within the Transportation System Serving the City of Augusta, Funding, Kennebec River, Kennebec County, ME.

Summary: EPA expressed concerns about the scope of analysis and that the EIS does not fully address potential direct and secondary impacts. EPA asked for additional information pertaining to secondary impacts, aquatic impacts, air quality, and mitigation.

ERP No. D–MMS–E03007–00 Rating EO2, Destin Dome 56 Unit Development and Production Plan, Right-of-Way Pipeline Application, NPDES Permit and COE Permit, Gulf of Mexico Outer Continental Shelf, FL, AL, MI and LA.

Summary: EPA expressed objection due to potential significant impacts to the Gulf bottom resources. EPA requested that the document substantiate the need for the additional natural gas resources. Mitigation for the protection of bottom resources is deficient, and additional resource protection measures are needed.

ERP No. DS–FHW–C40140–NY Rating EC2, NY–120/22 Reconstruction Corridor, from Exits 2 and 3 on I–684 and Old Post Road (PIN–8130.75), Funding, COE Section 10 and 404 Permits, Town of North Castle, Westchester County, NY.

Summary: EPA expressed environmental concerns with the project's stormwater pollution prevention plan, and requested that additional information be provided. EPA also recommended that an alternative with reduced impervious surface be developed.

Final EISs

ERP No. F–BLM–J65304–WY, Wyodak Coal Bed Methane Project, Implementation of Road Construction, Drilling Operation, Electrical

Distribution Line, Powder River Basin, Campbell and Converse Counties, WY.

Summary: EPA continues to have environmental concerns with disposal of CBM produced water and potential formaldehyde emissions.

ERP No. F–COE–E39048–FL, Alligator Chain of Lakes and Lake Gentry Extreme Drawdown and Habitat Enhancement Project, Implement Aquatic Habitat Enhancement, Osceola County, FL.

Summary: EPA has no significant objections to the proposed drawdown of the Alligator Chain and Lake Gentry in order to promote fisheries production and recreational opportunities.

ERP No. F–FHW–E40088–MS, Airport Parkway/Mississippi 25 Connectors, Construction Beginning at Intersection of High Street/Interstate 55 (I–55), Ending at Mississippi 25, City of Jackson, Hinds and Rankin Counties, MS.

Summary: EPA continues to have environmental concerns regarding potential long-term adverse wetland impacts, the loss of flood storage capacity, and limitations in the mitigation plan. Unless additional mitigation is provided, EPA anticipates that the project may encounter considerable difficulty during the Section 404 permitting process.

ERP No. F–FHW–F40144–WI, WI–131 and WI–33 Transportation Improvement, Relocation and/or Reconstruction, between Village of Ontario and Community of Rockton, Funding and Possible COE 404 Permit, Vernon County, WI.

Summary: EPA expressed environmental concerns with the project's wetlands compensation plan which was not fully detailed within the FEIS.

ERP No. F–NPS–K61221–CA, Fort Baker Site, Golden Gate National Recreation Area, Comprehensive Management Plan, Implementation, Marin County, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: November 22, 1999.

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 99–30809 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6248–4)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements Filed November 15, 1999 Through November 19, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990435, Final EIS, NPS, WA, Lake Roosevelt National Recreation Area, General Management Plan, Implementation, Ferry, Grant, Lincoln, Okanogan and Stevens Counties, WA, Due: December 27, 1999, Contact: Vaugh Baker (509) 633–9441.

EIS No. 990436, Draft EIS, FAA, TX, George Bush Intercontinental Airport Houston, Construction and Operation, Runway 8L–26R and Associated Near Term Master Plan Project, City of Houston, Harris County, TX, Due: January 10, 1999, Contact: Ben R. Guttery (817) 222–5614.

EIS No. 990437, Draft EIS, NPS, KS, Tallgrass Prairie National Preserve General Management Plan, Implementation, Flint Hills Region, Chase County, KS, Due: January 25, 2000, Contact: Michael Madell (608) 264–5257.

EIS No. 990438, Draft EIS, BLM, WY, Pinedale Anticline Oil and Gas Exploration and Development Natural Gas Wells Project, Implementation, Sublette County, WY, Due: January 25, 2000, Contact: Jon Johnson (307) 775–6116.

EIS No. 990439, Final EIS, COE, AL, Jackson Port Project, Proposal for the Public Port Facilities on the Tombigbee River, City of Jackson, Clark County, AL, Due: December 27, 1999, Contact: Beverley Stout (334) 694–4637.

EIS No. 990440, Draft supplement, BLM, CA, Soledad Canyon Sand and Gravel Mining Project, Proposal to Mine, Produce and Sell, ''Split Estate'' Private Owned and Federally Owned Lands, Transit Mixed Concrete, Los Angeles County, CA, Due: January 10, 2000, Contact: Elena Misquez (760) 251–4810.

EIS No. 990441, Final EIS, FHW, WV, Coalfields Expressway Transportation Improvements, Funding, NPDES and COE Section 404 Permits, McDowell, Wyoming and Raleigh Counties, WV, Due: December 27, 1999, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 990442, Final EIS, BIA, MT, Flathead Indian Reservation Forest Management Plan, Implementation, Rocky Mountain, Pablo, MT, Due: December 27, 1999, Contact: Donald R. Sutherland (202) 208–4791.

EIS No. 990443, Draft EIS, BLM, CA, Cadiz Groundwater Storage and Dry-Year Supply Program, Construction and Operation, Amendment of the California Desert Conservation Area (CDCA) Plan, Issuance of Right-of-Way Grants and Permits, San Bernardino County, CA, Due: February 22, 2000, Contact: James Williams (909) 697–5390.

EIS No. 990444, Draft EIS, NPS, AZ, Fort Bowie National Historic Site General Management Plan, Implementation, Cochise County, AZ, Due: January 30, 2000, Contact: Christine Maylath (303) 969–2851.

EIS No. 990445, Draft EIS, BLM, MT, SD, ND, Montana, North Dakota and Portions of South Dakota Off-Highway Vehicle and Plan Amendment, Implementation, MT, ND and SD, Due: February 24, 2000, Contact: Jerry Majerus (406) 538–1924. The U.S. Department of Interior's Bureau of Land Management and the U.S. Department of Agriculture's Forest Service are Joint Lead for this project.

Amended Notices

EIS No. 990374, Draft EIS, SFW, CA, Trinity River Mainstem Fishery Restoration, To Restore and Maintain the Natural Production of Anadromous Fish, Trinity and Humboldt Counties, CA, Due: December 06, 1999, Contact: Joe Polos (707) 822–7201.

Published FR 10–25–99—Review Period extended from 12–06–99 to 12–20–99.

Dated: November 22, 1999

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 99–30810 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30484; FRL–6390–3]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant

to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30484, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30484 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460 listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Mike Mendelsohn	9th Floor, CM #2, 703–308–8715, e-mail: mendelsohn.mike@epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Diana Horne	9th Floor, CM #2, 703–308–8367, e-mail: horne.diana@epa.gov.	Do.
Driss Benmhend	9th Floor, CM #2, 703–308–9525, e-mail: benmhend.driss@epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30484. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30484 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30484. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential

will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

A. Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 68467–E. *Applicant*: Mycogen Seeds, C/O Dow Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Product name*: Mycogen Brand Bt Cry1F Corn. *Active ingredient*: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. *Proposed classification/Use*: None. For seed increase registration for a total of 5,000 acres per year in Illinois, Iowa, Indiana, Nebraska, Minnesota, Texas, Hawaii, and Puerto Rico. (M. Mendelsohn)

2. *File Symbol*: 29964–G. *Applicant*: Pioneer Hi-Bred International, Inc., 7250 NW 62nd Avenue, P.O. Box 552, Johnston, Iowa 50131-0552. *Product name*: Pioneer Brand Cry1F Corn. *Active ingredient*: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. *Proposed classification/Use*: None. For seed increase registration for a total of 620 acres per year in Hawaii. (M. Mendelsohn)

3. *File Symbol*: 52991–RR. *Applicant*: Bedoukian Research, Inc. 21 Finance Dr., Danbury, CT 06810. *Product name*: Bedoukian Now Technical Pheromone. *Active ingredient*: z,z-11,13-Hexadecadienol at 89.7%. *Proposed classification/Use*: None. To manufacture pheromone to be used to disrupt mating of the Navel Orangeworm. (D. Benmhend)

4. *File Symbol*: 69834–E. *Applicant*: Eden Bioscience Corporation, 11816 North Creek Parkway N., Bothell, WA 98011–8205. *Product name*: Messenger. Biochemical. *Active ingredient*: Harpin protein at 3.0%. *Proposed classification/Use*: None. A protein derived from killed, genetically engineered *E. coli*, used for plant disease management, insect suppression, and plant growth enhancement. (D. Horne)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: November 4, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–30783 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–F

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place

Tuesday, December 7, 1999, at 9:00 a.m. to 1:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda

This meeting will include a discussion of the best practices of non-bank lenders in support of small businesses and a discussion of the roles community banks and insurance brokers play in export finance.

Public Participation

The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to December 3, 1999, Teri Stumpf, Room 1203, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contract Teri Stumpf, Room 1203, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 99–30752 Filed 11–24–99; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, November 30, 1999, 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, December 2, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1999–30: Nebraska State Democratic Party by Kenneth W. Haar, Executive Director.

Advisory Opinion 1999–31: Oshkosh Truck Corporation and OTCEPAC by counsel, Theodore H. Bornstein.
Final Audit Report on Republicans for Choice PAC.
Notice of Proposed Rulemaking on General Public Political Communications Coordinated with Candidates.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–30942 Filed 11–23–99; 3:34 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–24]

Cargo One, Inc. v. COSCO Container Lines Company, Ltd.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Cargo One, Inc. (''Complainant'') against COSCO Container Lines Company, Ltd. (''Respondent'') was served on November 19, 1999. Complainant alleges that Respondent is an ocean common carrier, that Respondent and Complainant entered into a service contract, and that Respondent violated sections 10(b)(1), 10(b)(3), 10(b)(6)(e), 10(b)(11), 10(b)(12) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. § 1709(b)(1), (b)(3), (b)(6)(e), (b)(11), (b)(12), and (d)(1), between February 1999 and April 1999, by demanding payment of tariff rates in lieu of agreed upon service contract rates, by denying space and equipment in deference to larger shippers, and denying Complainant's claim for liquidated damages in accordance with the provisions of the service contract.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 20, 2000, and the final decision of the Commission shall be issued by March 20, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–30744 Filed 11–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 10, 1999.

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. James O. Banks; James O. Banks, Jr.; James O. Banks, III; Andrew Harrison Banks; John S. Banks; Sarah B. Dodd; and Betty C. Banks, all of Eutaw, Alabama; to retain voting shares of Merchants & Farmers Bancshares, Inc., Eutaw, Alabama, and thereby indirectly retain voting shares of Merchants & Farmers Bank of Green County, Eutaw, Alabama.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. John Randall (Randy) Winegard, Burlington, Iowa; to acquire additional voting shares of River Valley Bancorp, Inc., Eldridge, Iowa, and thereby indirectly acquire additional voting shares of Valley State Bank, Eldridge, Iowa.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30688 Filed 11–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-30186) published on pages 63320 and 63321 of the issue for Friday, November 19, 1999.

Under the Federal Reserve Bank of Atlanta heading, the entries for Riverside Banking Company, Fort Pierce, Florida, are revised to read as follows:

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Riverside Banking Company, Fort Pierce, Florida; to acquire 12.28 percent of Class A voting shares and 5.91 percent of Class B voting shares of The Prosperity Banking Company, St. Augustine, Florida, and thereby indirectly acquire Prosperity Bank of St. Augustine, St. Augustine, Florida.

2. Riverside Banking Company, Fort Pierce, Florida; to acquire 51.34 percent of Class A voting shares and 1.00 percent of Class B voting shares of Riverside Gulf Coast Banking Company, Cape Coral, Florida, and thereby indirectly acquire Riverside Bank of the Gulf Coast, Cape Coral, Florida.

Comments on this application must be received by December 13, 1999.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30689 Filed 11–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the

banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Summit Bancorp, Princeton, New Jersey; to acquire 100 percent of the voting shares of NMBT Corp, New Milford, Connecticut, and thereby indirectly acquire voting shares of NMBT, New Milford, Connecticut.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Cleveland Holding Company, Cleveland, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bancorp, Inc., Cleveland, Oklahoma, and thereby indirectly acquire First Bank of Cleveland, Cleveland, Oklahoma.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Utah Bancshares, Inc., Emphraim, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Ephraim, Ephraim, Utah.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30690 Filed 11–24–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Proposed Collection: Submission for OMB Review; Comment Request Entitled American Customer Satisfaction Index

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for approval of a new information collection entitled American Customer Satisfaction Index.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), GSA has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection concerning American Customer Satisfaction Index (ACSI). An emergency review was requested by OMB and notice was published in the **Federal Register** at 64 FR 36690, July 7, 1999. OMB approved the emergency collection and assigned OMB Control No. 3090–0271.

The following summary of the proposed new information collection activity is designed to support the customer satisfaction policies outlined in Executive Order 12862, ''Setting Customer Service Standards,'' and to establish a means to consistently measure and compare customer satisfaction among high-impact agencies within the Executive Branch. GSA serves as the Executive Agent for this initiative and has selected the ACSI through a competitive procurement process as the vehicle for obtaining the required information.

The ACSI is a cross-industry, cross-agency metholodogy for obtaining comparable measures of customer satisfaction. Along with other economic objectives—such as employment and growth—the quality of output (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to the American people.

The surveys that comprise the Federal Government's portion of the ACSI will be completed subject to the Privacy Act 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection will be used solely for the purpose of the survey. The ACSI partnership will not be authorized to release any agency information upon completion of the survey without first obtaining permission from GSA and the agency in question. In no case shall any new system of records containing privacy information be developed by GSA, participating agencies, or the contractor responsible for compiling the ACSI. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records providing for such routine uses.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

DATES: Submit comments on or before January 25, 2000.

ADDRESSES: Comments concerning this notice should be submitted to: James L. Dean, Director, Committee Management Secretariat, Room G–230 (MC), 1800 F Street, NW, Washington, DC 20405, or e-mail to JamesDean@gsa.gov.

FOR FURTHER INFORMATION CONTACT: James Dean, Director, Committee Management Secretariat, General Services Administration at (202) 273–3563, or by e-mail to James.Dean@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The purpose of this Notice is to consult with and solicit comments from the public and affected agencies concerning the proposed collection of information under the ACSI to help improve the quality of goods and services available to the American people.

B. Annual Reporting Burden

Participation by Federal agencies in the ACSI is expected to vary as new customer segments measured are added or deleted. However, projected estimates for fiscal years 1999 through 2001 are as follows:

Fiscal Year 1999—30 Customer Segments

Respondents: 8,060; annual responses: 8,060; average minutes per response: .17; burden hours: 2,284.

Fiscal Year 2000—90 Customer Segments

Respondents: 24,180; annual responses: 24,180; average minutes per response: .17; burden hours: 6,852.

Fiscal Year 2001—200 Customer Segments

Respondents: 53,733; annual responses: 53,733; average minutes per response: .17; burden hours: 15,224.

Copy of Proposal

A copy of this proposal may be obtained by contacting James Dean at the above address.

Dated: November 19, 1999.

J. Les Davison,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 99–30719 Filed 11–24–99; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request; Proposed Project

Title: Child Care and Development Fund Plan for States/Territories.

OMB No.: 0970–0114.

Description: The ACF–118, the Child Care and Development Fund (CCDF) Plan for States and Territories, is required from the child care lead agency by section 658E of the Child Care and Development Block Grant Act of 1990 (Pub. L. 101–508, 42 U.S.C. 9858). The implementing regulations for the statutorily required Plan is at 45 CFR 98.10 through 98.18. The Plan is required biennially and remains in effect for two years. States/Territories have completed the ACF–118 for the FFY 2000–2001 biennium. However, approval for the ACF–118 expires May 31, 2000. States and Territories may amend their Plans to reflect changes in their programs at any time during a biennium. Therefore, in order to provide continuity for the Plan process, ACF is requesting that the current approval of the ACF–118 be extended through the end of the biennium, i.e., September 30, 2001. The Tribal Plan (ACF–118A) is not affected by this notice.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Care & Dev. Fund Plan for States/Terr.	56	.5	162.57	4,552

Estimated Total Annual Burden hours: 4,552.

In compliance with the requirements of section 3506(c)(2)(A) the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) The quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 19, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–30765 Filed 11–24–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4933]

Agency Information Collection Activities: Proposed Collection; Comment Request; FDA Safety Alert/ Public Health Advisory Readership Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing information collection, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for FDA Safety Alert/Public Health Advisory Readership Survey.

DATES: Submit written comments on the collection of information by January 25, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

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

FDA Safety Alert/Public Health Advisory Readership Survey (OMB No. 0910–0341B—Extension)

Section 705(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 375(b)) authorizes FDA to disseminate information concerning imminent danger to public health by any regulated product. The Center for Devices and Radiological Health (CDRH) communicates these risks to user communities through two publications: (1) The FDA Safety Alert and (2) the Public Health Advisory. Safety alerts and advisories are sent to organizations such as hospitals, nursing homes, hospices, home health care agencies, manufacturers, retail pharmacies, and other health care providers. Subjects of previous alerts included spontaneous combustion risks in large quantities of patient examination gloves, hazards associated with the use of electric heating pads, and retinal photic injuries from operating microscopes during cataract surgery.

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. FDA seeks to evaluate the clarity, timeliness, and impact of safety alerts and public health advisories by surveying a sample of recipients. Subjects will receive a questionnaire to be completed and returned to FDA. The information to be collected will address how clearly actions for reducing risk are explained, the timeliness of the information, and whether the reader has taken any action to eliminate or reduce risk as a result of information in the alert. Subjects will also be asked whether they wish to receive future alerts electronically, as well as how the safety alert program might be improved.

The information collected will be used to shape FDA's editorial policy for the safety alerts and public health advisories. Understanding how target audiences view these publications will aid in deciding what changes should be considered in their content, format, and method of dissemination.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
308	3	924	1.7	157

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

Based on the history of the safety alert and public health advisory program, it is estimated that an average of three collections will be conducted a year. The total burden of response time is estimated at 10 minutes per survey. This was derived by CDRH staff completing the survey and through discussions with the contacts in trade organizations.

Dated: November 19, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30728 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–5012]

Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to expand the safe use of oxidized bis(hydrogenated tallow alkyl) amines as a process stabilizer for certain olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition, (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0B4700) has been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to expand the safe use of oxidized bis(hydrogenated tallow alkyl) amines as a process stabilizer for certain olefin polymers intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: November 3, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–30729 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Immunology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Immunology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 13, 1999, 9:30 a.m. to 5:30 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Louise E. Magruder, Center for Devices and Radiological Health (HFZ–440), Food and Drug

Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12516. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an enzyme immunoassay to be used as an aid in the diagnosis of patients with transitional cell carcinoma of the urinary tract.

Procedure: On December 13, 1999, from 10 a.m. to 5:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 1, 1999. On December 13, 1999, oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:15 a.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 1, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On December 13, 1999, from 9:30 a.m. to 10 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future device submissions (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this information.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 17, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–30704 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Radiological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 16, 1999, 8:30 a.m. to 5 p.m.

Location: DoubleTree Hotel, Plaza Ballroom, 1750 Rockville Pike, Rockville, MD.

Contact Person: Robert J. Doyle, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd. Rockville, MD 20850, 301–594–1212, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a digital mammography device.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 8, 1999. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:15 a.m. Near the end of the committee deliberations, a 30 minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 8, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 15, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–30705 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4577]

Draft ''Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing a draft guidance document entitled ''Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma.'' The purpose of the draft guidance document is to seek public comment on FDA's approach to regulating nucleic acid testing for infectious agents when intended for use in blood donor screening and/or manufacturing of blood products. FDA is issuing the draft guidance document in response to requests from manufacturers for guidance in the development of nucleic acid testing of plasma pools for infectious agents.

DATES: Written comments may be submitted at any time, however, comments should be submitted by January 25, 2000, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at

1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance document entitled ''Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma.'' The draft guidance document outlines FDA's approach to the development and implementation of nucleic acid testing of infectious agents when intended to screen blood donors for manufacturing of blood products. FDA considers nucleic acid testing of plasma pools to be donor screening.

The draft guidance document represents the agency's current thinking regarding nucleic acid testing of pooled plasma for viral detection in blood and blood products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Comments

The draft guidance document is being distributed for comment purposes only. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by January 25, 2000, to ensure their adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document at http://www.fda.gov/cber/guidelines.htm.

Dated: November 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy,

[FR Doc. 99–30702 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Docket Identifier: HCFA–R–0250]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Skilled Nursing Facility (SNF) Resident Assessment MDS Data and Supporting Regulations in 42 CFR 413.343 and 424.32; *Form No.:* HCFA–R–250 (OMB# 0938–0739); *Use:* Skilled Nursing Facilities (SNFs) are required to submit Resident Assessment Data as described at 42 CFR 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR 413.337. Pursuant to sections 4204(b) and 4214(d) of OBRA 1987, the current requirements related to the submission and retention of resident assessment data for the 5th, 30th and 60th days following admission, necessary to administer the payment rate methodology described in 413.337, is subject to the Paperwork Reduction Act; *Emergency:* Monthly; *Affected Public:* Business or other for-profit, and Not-for-profit; *Number of Respondents:* 17,000; *Total Annual Responses:* 204,000; *Total Annual Hours:* 5,696,218.25.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 16, 1999.

John Parmigiani,

Acting HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–30786 Filed 11–24–99; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Immunoconjugates Having High Binding Affinity''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(I) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to U.S. Patent Applications 09/321,490, entitled: ''Immunoconjugates Having High Binding Affinity'' and corresponding foreign patent applications to NeoPharm, Inc. having a place of business in Bannockburn, Illinois. The patent rights in these inventions have been assigned to the United States of America and the

contemplated license may be limited to the use of the SS(dsFv)–PE38 immunotoxin and relevant patent applications for the therapeutic treatment of ovarian cancer and mesotheliomas.

DATES: Only written comments and/or applications for a license which are received by NIH on or before February 24, 2000 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: J.R. Dixon, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804. Telephone: (301) 496–7735 ext. 206; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The technology disclosed in USPA 09/321,490 relates to anti-mesothelin antibodies, including Fv molecules, with a particular high affinity for mesothelin, and immunoconjugates employing them. Also, described are DNA sequences plus diagnostic and therapeutic methods using the antibodies. The anti-mesothelin antibodies are well-suited for the diagnosis and treatment of cancers of the ovary, stomach, squamous cells, mesotheliomas, and other malignant cells expressing mesothelin.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within ninety (90) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the use of the SS(dsFv)–PE–38 immunotoxin under the relevant patent applications for the therapeutic treatment of ovarian cancer and mesotheliomas.

Applications for a license [i.e., completed ''Application for License to Public Health Service Inventions] in the field of use of the SS(dsFv)–PE38 immunotoxin and the relevant Patent Applications for the therapeutic treatment of ovarian cancer and mesotheliomas filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections will not be made available for public inspection and, to the extent by law, will not be subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–30717 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, December 6, 1999, 8:00 PM to December 8, 1999, 1:00 PM, National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6 Floor, Conference Room 10, Bethesda, MD 20892 which was published in the **Federal Register** on November 16, 1999, 64FR62210–62211.

NCAB will also meet in closed session on December 6, 1999 from 8:30 AM to 4:00 PM.

Dated: November 17, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Policy, NIH.

[FR Doc. 99–30712 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical 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 General Medical 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 552(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 General Medical Sciences Council.

Date: January 27–28, 2000.

Closed: January 27, 2000, 8:30 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: January 27, 2000, 11:00 AM to 6:00 PM.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: January 28, 2000, 8:30 AM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: W. Sue Shafer, Deputy Director, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30714 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; 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 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: National Institutes of Mental Health Special Emphasis Panel.

Date: December 2, 1999.

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

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.

(Catalog of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientific Development Award for Clinicans, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30715 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Center for Scientific Review Advisory Committee.

The meeting will be open to the public, 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.

Name of Committee: Center for Scientific Review Advisory Committee.

Date: January 10–11, 2000.

Time: 8:30 AM to 1:00 PM.

Agenda: Discussion of activities to evaluate organization and function of the Center for Scientific Review process.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Samuel Joseloff, Executive Secretary, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3016, MSC 7776, Bethesda, MD 20892, (301) 435–1040, joselofs@csr.nih.gov.

(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: November 17, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30713 Filed 11–24–99; 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.

Date: November 30, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David J. Remondini, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.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.

Date: December 1, 1999.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

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: December 1, 1999.

Time: 3 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia H. Hand, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767, handp@csr.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.

Date: December 2, 1999.

Time: 12 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mike Radtke, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728.

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: December 3, 1999.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW, Washington, DC 20007.

Contact Person: Paul K. Strudler, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

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: December 6, 1999.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

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: December 7, 1999.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac Stiles, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, (301) 435–1785.

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: December 7, 1999.

Time: 3:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eugene Vigil, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

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: December 9–10, 1999.

Time: 9:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Governors House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Camilla E. Day, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 13, 1999.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 1999.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 44150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 15, 1999.

Time: 11:00 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 15, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anthony C. Chung, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7802, Bethesda, MD 20892, (301) 435–1850.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 11:00 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Arnold Revzin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 3:00 pm to 7:00 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Center for Scientific Review Special Emphasis Panel VISB.

Date: December 16, 1999.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Leonard Jakubczak, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 1999.

Time: 12:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

(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: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30716 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–47]

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.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; 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 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories; Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *DOT:* Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract and Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Mr. Al Barth, Property Management, Department of the Interior, 1849 C Street, NW., Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–7283; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: November 18, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Suitable/Available Properties

Buildings (by State)

Massachusetts

Crowell Shed
Tract 41–8673
Chatham Co: Barnstable MA 02633–
Landholding Agency: Interior
Property Number: 61199940001
Status: Unutilized
Comment: 120 sq. ft., storage shed, access via 4-wheel drive only over sand trail, off-site use only

Katz, Tract 17–2724
10 Old King's Highway
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940002
Status: Unutilized
Comment: 878 sq. ft., cement block, most recent use—residential, off-site use only

Carnelia, Tract 17–2725
12 Old King's Highway
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940003
Status: Unutilized
Comment: 1391 sq. ft., concrete block, most recent use—residential, off-site use only

Simons, Tract 17–2787
6 Head of Pamet Way
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940004
Status: Unutilized
Comment: 1600 sq. ft., most recent use—residential, off-site use only

Moss, Tract 17–2788
425 Ocean View Drive
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940005
Status: Unutilized
Comment: 2496 sq. ft. residence plus 2 outbuildings, off-site use only

Barracks 38, 39
Off Old Dew Line Road
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940006
Status: Unutilized
Comment: 5710 sq. ft., 2-story, presence of asbestos, off-site use only

Gips, Tract 21–4837
188 Way #626
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940007
Status: Unutilized
Comment: 2015 sq. ft., concrete block, most recent use—residential, off-site use only

Weidlinger 19–4136
Valley road
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940008
Status: Unutilized
Comment: 1855 sq. ft., most recent use—residential, off-site use only

Plymouth Light
Plymouth Co: Plymouth MA
Landholding Agency: DOT
Property Number: 87199420003
Status: Unutilized
Comment: 250 sq. ft. tower, and 2096 sq. ft. dwelling, wood frame, most recent use—aid to navigation/housing

New Jersey

Bldg. D1–A
Naval Weapons Station
Colts Neck Co: NJ 07722–

Landholding Agency: Navy
Property Number: 77199940024
Status: Unutilized
Comment: 1134 sq. ft., presence of lead paint, most recent use—smokehouse/luchroom, off-site use only

Bldg. HA–1A
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940025
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Land (by State)

Kentucky

Segments 15–19
South Williamson Project
S. Williamson Co: Pike KY 41503–
Landholding Agency: GSA
Property Number: 54199940009
Status: Excess
Comment: 304. acres/105 tracts, special floodplain restrictions GSA Number: 4–D–KY–608

Unsuitable Properties

Buildings (by State)

California

Bldg. 517
NPS Maint Yard
Yosemite Nat Park Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61199940009
Status: Unutilized
Reason: Extensive deterioration

Hawaii

Facility 145
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940028
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 146
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940029
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 147
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940030
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 156
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940031
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 1876
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940032
Status: Excess
Reasons: Secured Area, Extensive deterioration

New Jersey

Old Bridge Housing
Route 9
Old Bridge Co: NJ 08857–
Landholding Agency: GSA
Property Number: 54199940010
Status: Excess
Reason: Extensive deterioration
GSA Number: 0–0–NJ–000

28 Sheds
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940026
Status: Unutilized
Reason: Extensive deterioration

Tennessee

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Tract 01–205
Stones River Natl
Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199940010
Status: Unutilized
Reason: Extensive deterioration

Elkmont Maint/Ofc Bldg
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940011
Status: Unutilized
Reason: Extensive deterioration

Guest House 9A
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940012
Status: Unutilized
Reason: Extensive deterioration

Cabin 9B
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940013
Status: Unutilized
Reason: Extensive deterioration

Cabin 12, Sneed's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940014
Status: Unutilized
Reason: Extensive deterioration

Cabin 14, Jamerson's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940015
Status: Unutilized
Reason: Extensive deterioration

Cabin 16, Burdette's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940016
Status: Unutilized
Reason: Extensive deterioration

Cabin 17, Bagley's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940017
Status: Unutilized
Reason: Extensive deterioration

Cabin 20, Andrews
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940018
Status: Unutilized
Reason: Extensive deterioration

Cabin 25, Franklins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940019
Status: Unutilized
Reason: Extensive deterioration

Cabin 26, Hutchins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940020
Status: Unutilized
Reason: Extensive deterioration

Cabin 43, Brandau's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940021
Status: Unutilized
Reason: Extensive deterioration

Cabin 44, Parrott's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940022
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs.
Naval Support Activity
Millington Co: Shelby TN 38054–
Location: 766, 1597–1598, 5238, 435–446, S239, S75, 1211, 1379
Landholding Agency: Navy
Property Number: 77199940027
Status: Excess
Reasons: Secured Area, Extensive deterioration

Texas

Log Cabin
Saratoga Unit

Hwy 770
Saratoga Co: Hardin TX 77585–
Landholding Agency: Interior
Property Number: 61199940023
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 99–30534 Filed 11–24–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1310–EJ–CBMP]

Wyodak Coalbed Methane Project, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability (NOA) of record of decision.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Environmental Impact Statement (EIS) for the Wyodak Coalbed Methane Project. That EIS analyzes the potential impacts and cumulative effects of proposed coalbed methane (CBM) development on Federal and non-Federal lands in Campbell, Converse, Johnson, and Sheridan Counties, Wyoming. BLM's decision was to approve Alternative 1, which analyzed the impacts of drilling 5000 wells in the project area.

BLM received 12 comment letters on the final EIS. None of those comments included new or substantive information that required revision of the EIS. The issues raised in those comment letters are summarized and responded to in the ROD. All comments received were taken into consideration in reaching our decision.

BLM Notices of Availability for the draft EIS and for the final EIS for this project were published in the **Federal Register** on May 14, 1999 (64 FR 26436), and on October 4, 1999 (64 FR 53690), respectively.

DATES: The ROD was signed by the State Director on November 17, 1999. Parties in interest have the right to appeal that decision pursuant to Title 43, Code of Federal Regulations, Subpart 3165.4, within 30 days from the date of publication of this NOA in the **Federal Register**. The ROD contains instructions on taking appeals to the Interior Board of Land Appeals.

FOR FURTHER INFORMATION CONTACT: Richard Zander, phone: (307) 684–1100. Copies of the ROD may be obtained from the following BLM offices: Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834, (307) 684–1100; Casper Field Office, 1701 East E Street, Casper, Wyoming 82601, (307) 261–7600; and Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009, (307) 775–6256.

Dated: November 19, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–30722 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of amendment to Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved an Amendment, executed on November 2, 1999, to the Gaming Compact between the Coushatta Tribe of Louisiana and the State of Louisiana.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 18, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30726 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amended gaming compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Spirit Lake Tribe and the State of North Dakota, which was executed on September 29, 1999.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30727 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of amendment to Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved an Amendment, executed on November 9, 1999, to the Gaming Compact between the Tunica-Biloxi Indian Tribe of Louisiana and the State of Louisiana.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 18, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30725 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[8323.2]

Notice of Intent to Prepare an Environmental Assessment (EA) on Construction of an Interpretive Center and Other Facilities at Pompeys Pillar National Historic Landmark, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Assessment (EA) on construction of an interpretive center and other facilities at Pompeys Pillar National Historic Landmark, Montana and Notice of Scoping Meetings.

SUMMARY: The Bureau of Land Management, Billings Field Office and the Montana Department of Transportation will be directing the preparation of an EA to be prepared by a third party contractor on the impacts of a proposed interpretive center and other facilities proposed on public lands at Pompeys Pillar National Historic Landmark in south-central Montana. The EA will amend the Billings Resource Management Plan to provide further guidance on the management of Pompeys Pillar National Historic Landmark.

DATES: Written comments will be accepted until January 28, 2000. Public scoping meetings will be held at Pompeys Pillar National Historic Landmark on January 4, 2000 and in Billings, Montana on January 5, 2000. Exact locations and times will be announced through the local media. Additional briefing meetings will be considered as appropriate.

ADDRESSES: Send comments to Billings Field Manager, P. O. Box 36800, 5001 Southgate Drive, Billings, Montana 59107–6800. ATTN: Pompeys Pillar Interpretive Center EA.

FOR FURTHER INFORMATION CONTACT: Dick Kodeski, BLM Billings Field Office, (406) 896–5235.

SUPPLEMENTARY INFORMATION: The need for a new interpretive center at Pompeys Pillar National Historic Landmark was addressed in the 1996 Pompeys Pillar Amendment to the Billings Resource Management Plan and impacts analyzed in the accompanying EA. The EA to be developed at this time will further analyze the location and visual aspects of the interpretive center, as well as that of additional facilities, including the possibility of a State of Montana Department of Transportation highway rest area at this location. Additional facilities to be addressed are an entrance road, trails, parking, restrooms, picnic area, sewage treatment, utilities, and employee housing. The possibility of providing a highway rest area is being considered because of potential cost savings to the public through the sharing of development, and operation and maintenance of facilities.

The scoping process for the EA will include: (1) Identification of what will be addressed; (2) Identification of viable alternatives, including a no-action alternative, and (3) Notifying interested groups, individuals, and agencies so that additional information concerning this project can be obtained.

Dated: November 18, 1999.

Larry E. Hamilton,

State Director.

[FR Doc. 99–30796 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–00–1220–00]

Notice of Availability of Resource Management Plan Amendment for the Red Hill Area; Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability, Decision Record, and Travel and Use Restrictions.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976 and Bureau of Land Management (BLM) regulations in CFR 1610.2 and 1610.5–5., the BLM has amended the Resource Management Plan (RMP) for the Glenwood Springs Field Office (GSFO) approved in January of 1984.

The amendment changed the management prescription for the Red Hill area, approximately 3,093 acres, north of the town of Carbondale, Colorado in Garfield County. The Red Hill area includes all BLM managed public lands bounded on the west and south by State Highway 82, on the north by the County Road 113, and on the east by County Roads 112 and 105. These public lands are located in Township 7 South, Range 88 West, Sections 15, 16, 17, 18, 20, 21, 22, 23, 26, 27, 28; Sixth P.M.

The Decision Record (DR) administratively recognized Red Hill area as a Special Recreation Management Area (SRMA) where recreation is a principle management focus. The DR closed the area to unauthorized motorized vehicles and designated routes open for mountain bike riding. To protect wintering big game, the DR placed seasonal (December 1–March 31) restrictions on mountain bike travel in; Township 7 South; Range 88 West; Sections 15, 16, 17, 18, 20, 21 (north half), 22, 23, 26, 27; Sixth P.M. The DR revised the Class III and IV visual resource management designations to Class II where the level of change in basic landscape elements will remain low. The DR also applied no surface occupancy (NSO) stipulations to the area to maintain the current undeveloped physical setting.

DATES: The amendment, including the travel and use restrictions, to the Glenwood Springs Resource Area Resource Management Plan (RMP) for the Red Hill area will take effect after the 60-day Governor's Consistency Review and 30-day protest period, provided all protests have been resolved by that time. The 60-day Governor's Consistency Review will end December 31, 1999. The 30-day protest period will begin when notice of the decision is published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare a RMP amendment was published in the **Federal Register** in Vol. 64, No. 1 on Jan. 4, 1999.

The travel and use restrictions are being implemented to protect wintering big game and support the preferred physical, social and managerial recreational settings. The area and routes affected by this order will be posted with appropriate regulatory signs in such a manner and location as is reasonable to bring prohibitions to the attention of visitors. Information, including maps of the restricted area, is available in the Glenwood Springs Field Office at the addresses shown above.

Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; (2) BLM employees engaged in official duties; (3) Persons authorized to operate mechanized and motorized vehicles within the restricted area.

The Decision Record contains decisions which amend the Glenwood Springs Resource Area Resource Management Plan (RMP) for the Red Hill area. The Bureau's planning regulations (43 CFR 1610.5–2) provide protest procedures for persons adversely affected by the approval of RMP amendments. Any person who participated in the planning process and has an interest which is or may be adversely affected by the amendment of an RMP may protest such amendments. A protest may only raise those issues

which were submitted for the record during the planning process. The protest shall be in writing and shall be filed with the Director. For an amendment not requiring the preparation of an environmental Impact Statement, the protest shall be filed within 30 days of the publication of the notice of its effective date. The Director's mailing address and protest procedures are available from the Glenwood Springs Field Office at (970) 947–2800.

Certain mitigation measures included in the Decision Record are considered actions to implement the RMP as amended and may be appealed to the Interior Board of Land Appeals in accordance with regulations in Title 43 of the Code of Federal Regulations 4.411 and 4.413. Form CSO 1840–3 (available from the Glenwood Springs Field Office) outlines appeal procedures. The forms also include instructions for requesting a stay of the decision appealed. If an appeal is taken, the notice of appeal must be filed in the BLM, Glenwood Springs Field Office, P.O. Box 1009, Glenwood Springs, CO 81602, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision is in error and is adverse to you.

Penalties

Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7.

ADDRESSES: Field Office Manager, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Brian Hopkins, (970) 947–2840.

Roy E. Smith,

Acting Glenwood Springs Field Office Manager.

[FR Doc. 99–30787 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–99–1990–00; CACA20139 and CACA22901]

Transit Mixed Concrete Company Proposed Sand and Gravel Mining Operation, Soledad Canyon, Los Angeles County, California

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs-South Coast Field Office, Desert District, California.

ACTION: Notice of availability of Draft Conformity Determination.

SUMMARY: In compliance with section 176 of the Federal Clean Air Act and as required by 40 CFR 93.150–160, notice is hereby given that the Bureau of Land Management (BLM) has prepared a Draft Conformity Determination regarding air quality for Transit Mixed Concrete Company's proposal to mine sand and gravel reserves in Soledad Canyon, Los Angeles County, California. The Draft Conformity Determination is provided within the Supplemental Draft Environmental Impact Statement (SDEIS) for the Project which is available for public review. The Draft Conformity Statement is required to demonstrate the Project's compliance with the provisions of 40 CFR Part 93 regarding conformity of Federal actions to State and Federal Implementation Plans. In accordance with 40 CFR 93.155 and 93.156, BLM is providing notice and is asking for written public comment on the Draft Conformity Determination before taking any formal action. Comments on the Draft Conformity Determination must be forwarded to Mr. James G. Kenna, Field Manager, of the BLM at the address listed below by January 10, 2000. Copies of the SDEIS containing the Draft Conformity Determination may be obtained by telephoning or writing to the contact person listed below. Public reading copies are available at the following County of Los Angeles public libraries: Canyon Country Library, 18536 Soledad Canyon Road, Santa Clarita, CA 91351; Newhall Library, 22704 W. Ninth Street, Santa Clarita, CA 91321; Valencia Library, 23743 W. Valencia Boulevard, Santa Clarita, CA 91355.

DATES: Comments must be received in writing to the BLM no later than January 10, 2000.

ADDRESSES: Written comments shall be mailed to the following address: Mr. James G. Kenna, Field Manager, Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Avenue, P.O. Box 1260, North Palm Springs, California, 92258. Comments may also be submitted by electronic mail (E-mail) to the following address: emisquez@ca.blm.gov. The response to comments will be provided in the Final EIS.

FOR FURTHER INFORMATION CONTACT: Ms. Elena Misquez, BLM, Palm Springs-South Coast Field Office at (760) 251–4810.

Dated: November 19, 1999.

James G. Kenna,

Field Manager.

[FR Doc. 99–30795 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–00–1220–00]

Seasonal Travel Restrictions to Motorized Vehicles in the Light Hill Area; Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that public lands in the Light Hill area, south of Basalt, Colorado, are seasonally closed to all motorized vehicle use from December 1 to April 30 of each year. The affected public land is generally located south and west of Colorado Highway 82, north of the East Sopris Creek Road (County Road 6) and west of the Snowmass Creek Road (County Road 11). The travel order includes public lands in T. 8 S., R. 87 W., Section 13 and 24; T. 8 S., R. 86 W., Sections 18, 19, 20, 21, 27, 28, 29, 30, 32, 33, 34; 6th Principal Meridian; Pitkin County.

This action is in accordance with the Glenwood Springs Resource Management Plan, Record of Decision (BLM, 1984). This order, issued under the authority of 43 CFR 8364.1 and 43 CFR 8341.2(a), is established to protect wintering big game. Any use of motor vehicles within the closed area, from December 1 until April 30, is prohibited. This travel order does not affect non-motorized forms of travel.

EFFECTIVE DATES: The restriction shall be effective immediately until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The area affected by this order has been closed periodically since 1992 to protect wintering big game. This order institutes the travel restriction on an annual basis.

The area and routes affected by this order will be posted with appropriate regulatory signs in such a manner and location as is reasonable to bring prohibitions to the attention of visitors. Information, including maps of the restricted area, is available in the Glenwood Springs Field Office at the addresses shown below.

Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; (2) BLM employees engaged

in official duties; (3) Persons authorized to operate motorized vehicles within the restricted area.

Penalties

Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7.

ADDRESSES: Field Office Manager, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Brian Hopkins (970) 947–2840.

Roy E. Smith,

Acting Glenwood Springs Field Office Manager.

[FR Doc. 99–30788 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–1220–PA]

Recreation Management Restrictions, etc.: Wyoming; Camping Stay Limits

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of 14-day camping limit on all public lands in Wyoming.

SUMMARY: In accordance with 43 CFR, part 8364, subpart 8364.1 and part 8365, 8365.1–2, 8365.1–6, and 8365.2–3, persons may camp or occupy any specific location within designated campgrounds or on undeveloped public lands within the State of Wyoming for a period of not more than 14 days within any period of 28 consecutive days. Exceptions would include areas closed to camping, areas with specially designated camping-stay limits, and activities authorized by permit. The 28-day period will begin when a camper initially occupies a specific location on public land. The 14-day limit may be reached either through several separate visits or through 14 days of continuous occupation during the 28-day period. After the 14th day of occupation, campers must move outside of a 5-mile radius of the previous location. The authorized officer may give written permission for extension of the 14-day limit if extenuating circumstances warrant. Camping means overnight occupancy. Occupancy is defined as the taking or holding possession of a camp or residence on public land. Occupancy or holding for occupancy is placing private property used in connection for camping; such as, but not limited to vehicles, trailers, structures, tents, stoves, chairs, notes, or other personal items. In addition, no person shall leave personal property unattended on public lands for a period of more than 72 hours without written permission from the authorized officer. Unattended personal property will be counted towards the 14 day continuous camp limit and/or the 28 day maximum camp limit. Any property left on public land beyond the camping or hours limit may be impounded by the authorized officer pending disposition in court. Exempted from this camping limit are administrative authorized personnel, law enforcement officers, and fire or emergency personnel.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Goldbach, Recreation Program Leader, Division of Resources Policy and Management, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, WY 82009. Telephone: 307–775–6102.

SUPPLEMENTARY INFORMATION: This occupancy and camping-stay limit is being established in order to assist the Bureau in reducing the incidence of unauthorized long-term occupancy being conducted under the guise of camping, both within campgrounds and on undeveloped public lands. Of equal importance is the problem of exclusion, whereby long-term camping at a given location will deny equal opportunities for other members of the public to camp in the same area or location.

Dated: November 18, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–30723 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 15, 1999, the United States lodged a proposed consent decree in the case of *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), in the United States District Court for the District of Nevada. The consent decree settles and action brought by the United States pursuant to Sections 104 and 107 of the Comprenhensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9604, 9607, to recover the costs incurred in conducting a 1993 removal action at an approximate 10 arce parcel located at 6247 East Charleston Boulevard in Las Vegas, Nevada (''site'').

The consent decree requires the defendants to sell the site and to use the proceeds from that sale to reimburse EPA for up to $537,768 of EPA's response costs, or 52.5 percent of the site costs. The consent decree also requires the United States on behalf of the United States Air Force to pay $486.552 toward the response costs, or 47.5 percent of the site costs. Removal costs, including interest, total $1,024,320.

The Department of Justice will accept comments relating to this consent decree for a period of thirty (30) days from the date of this publications. *See* 28 CFR 50.7. Address your comments to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and send a copy of the Environmental Enforcement Section, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105. Your comments should refer to *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), and DOJ No. 90–11–3–1742.

A copy of the consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. Your request for a copy of the consent decree in *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), and DOJ No. 90–11–3–1742, and must include a check for $8.75 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.'' You may also examine the proposed consent decree in person, or request a copy by mail from the United States Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, or at the U.S. Attorney's Office, 700 E. Bridger Avenue, Las Vegas, Nevada 89101.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–30790 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy and the procedures set forth at 28 CFR 50.7, notice is hereby

given that a proposed Partial Consent Decree in *United States of America* v. *Jack L. Aronowitz, Technical Chemicals & Products, Inc., et al.*, C.A. No. 98–6201–CIV–DIMITROULEAS (S.D. Florida), was lodged on November 10, 1999, with the United States District Court, Southern District of Florida, Fort Lauderdale Division. The Partial Consent Decree resolves a claim filed by the United States on behalf of the United States Environmental Protection Agency, against defendant Theodore Holstein, individually and as trustee of the Holstein Family Trust (the ''Settling Defendant''), pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, *as amended*, 42 U.S.C. 9601, *et seq.*

The Partial Consent Decree provides that the Settling Defendant shall pay $230,000.00, plus interest accruing thereon from November 5, 1999, for reimbursement of past response costs incurred by the United States in connection with the Lauderdale Chemical Warehouse Site, located at 4987 N.W. 23rd Avenue, Fort Lauderdale, Broward County, Florida.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Jack L. Aronowitz, Technical Chemicals & Products, Inc., et al.*, DOJ Ref. # 90–11–3–1757.

The proposed Partial Consent Decree may be examined at: (1) The Office of the United States Attorney, 500 E. Broward Blvd., Suite 700, Fort Lauderdale, Florida 33394; and (ii) Region 4 of the U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. A copy of the proposed Partial Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044, (202) 514–1547. In requesting a copy, refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Principal Deputy Chief, Environmental Enforcement Section.

[FR Doc. 99–30789 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Harsco Corporation, Pandrol Jackson Limited, and Pandrol Jackson Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16(b) through (h), that a Complaint, Hold Separate Stipulation and Order, and a proposed Final Judgment were filed with the United States District Court for the District of Columbia in *United States of America* v. *Harsco Corporation, Pandrol Jackson Limited, and Pandrol Jackson Inc.,* Civil No. 99–02706 on October 14, 1999. A Competitive Impact Statement was filed on November 8, 1999. The Complaint alleged that the proposed acquisition of certain assets of Pandrol Jackson Limited and Pandrol Jackson Inc. (''Pandrol'') by Harsco would violate Section 7 of the Clayton Act, 15 U.S.C. Section 18, in the markets for switch and crossing and transit grinding equipment and switch and crossing grinding services in North America. The proposed Final Judgment, filed at the same time as the Complaint, requires Harsco, among other things, to: (1) divest all assets acquired from Pandrol related to the manufacture and sale of switch and crossing grinding equipment; and (2) divest all assets acquired from Pandrol related to the providing of switch and crossing grinding services.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, the industry, and remedies to be implemented by Harsco. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the District of Columbia, Washington, DC. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations & Merger Enforcement.

Hold Separate Stipulation and Order

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Harsco'' means defendant Harsco Corporation, a Delaware corporation with its corporate headquarters in Camp Hill, Pennsylvania, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. ''Charter'' means Charter plc, a United Kingdom corporation, with its corporate headquarters in London, England, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. ''Pandrol'' means defendant Pandrol Jackson Ltd., a United Kingdom corporation, with its corporate headquarters in Surrey, England and defendant Pandrol Jackson Inc. with its corporate headquarters in Ludington, Michigan, both of which are indirectly owned by Charter, and their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees; Pandrol submit to the jurisdiction of this Court solely for purposes of this action to permit the contemplated sale of assets of Harsco; nothing contained herein shall be deemed an admission of personal jurisdiction or an appointment of any agent for service of process for any other purpose.

D. ''Switch and Crossing Grinding Equipment'' means rail grinders and any related equipment used to remove surface irregularities and restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings, thereby providing longer rail life and reducing the wear on rolling stock and track components.

E. ''Switch and Crossing Grinding Services'' means switch and crossing grinding services provided commercially to railroads and transit systems.

F. ''Switch and Crossing Grinding Assets'' means all of the assets acquired by Harsco from Pandrol related to the Switch and Crossing Grinding Equipment manufactured by Pandrol and to the Switch and Crossing Grinding Services provided by Pandrol inclusive of all tangible and intangible assets used in the manufacture and sale of Switch and Crossing Grinding Equipment and the providing of Switch and Crossing Grinding Services, including all intellectual property rights, technical information, know-how, trade secrets, blueprints, licenses, permits, product trade names (other than the ''Jackson'' name), product trade dress, tooling, existing inventory and work in progress, accounts receivable, pertinent correspondence, files and databases, books of account, customer lists, supplier lists, advertising materials, contracts with third parties (to the extent assignable), but not including any manufacturing or assembly facility, or any real estate owned or leased by Harsco or Pandrol.

II. Objectives

The proposed Final Judgment filed in this case is meant to ensure Harsco's prompt divestiture of the Switch and Crossing Grinding Assets for purposes of creating a viable competitor in the manufacture and sale of switch and crossing grinding equipment and services. This Hold Separate Stipulation and Order ensures the timely and complete transfer of these assets and maintains the separation of Harsco's and Pandrol's switch and crossing grinding businesses as independent, viable competitors until the required divestiture is complete.

III. Jurisdiction and Venue

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.

IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a proposed Final Judgment in the form attached hereto may be filed with 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 the United States has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry 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.

C. 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.

D. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) 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.

E. Harsco represents that the divestitures ordered in the proposed Final Judgment can and will be made, and that it will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

V. Hold Separate Provisions

A. Harsco shall preserve, maintain, and operate the Switch and Crossing Grinding Assets as an independent competitive business, with management, research, development, production, sales and operation of such assets held entirely separate, distinct and apart from those of Harsco. Harsco shall not coordinate its production, marketing or sale of any products with that of any of the Switch and Crossing Grinding Assets, except to the limited extent provided in this Section V below. Within fifteen (15) days of the entering of this Order, Harsco will inform the United States of the steps taken to comply with this provision.

B. Harsco shall take all steps necessary to ensure that the Switch and Crossing Grinding Assets will be maintained and operated as an independent, ongoing, economically viable and active competitor in the development, production and sale of their respective products and services, that the management of the Switch and Crossing Grinding Assets will not be influenced by Harsco, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Switch and Crossing Grinding Assets, including the performance and decision-making functions regarding internal research and development, sales and pricing, will be kept separate and apart from the business of Harsco. Harsco's influence over the Switch and Crossing Grinding Assets shall be limited to that necessary to carry out Harsco's obligations under this Order and the proposed Final Judgment.

C. Harsco shall provide and maintain sufficient working capital to maintain the Switch and Crossing Grinding Assets as a viable, ongoing business, consistent with current business plans.

D. Harsco shall provide and maintain sufficient lines and sources of credit to maintain the Switch and Crossing Grinding Assets as a viable, ongoing business.

E. Harsco shall maintain, on behalf of the Switch and Crossing Grinding Assets, in accordance with sound accounting practices, separate, true and complete financial ledgers, books and records reporting the profit and loss and liabilities of the business on a monthly and quarterly basis.

F. Harsco shall use all reasonable efforts to maintain and increase the sales of the Switch and Crossing Grinding Assets to be divested, such as maintaining at 1998 or previously approved levels for 1999, whichever are higher, internal research and development funding, sales, marketing, and support for the Switch and Crossing Grinding Assets.

G. Harsco shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, assets that may be required to be divested pursuant to the Final Judgment.

H. Harsco shall preserve the assets that may be required to be divested pursuant to the Final Judgment in a state of repair equal to their state of repair as of the date of this Order, ordinary wear and tear excepted.

I. Except in the ordinary course of business or as is otherwise consistent with this Order, Harsco shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employee who, on the date of entry of this Order, works for the Switch and Crossing Assets. Harsco shall not solicit

to hire any individual who, on the date of entry of this Order, was an employee of any of the assets to be divested under the proposed Final Judgment.

J. Within ten (10) days of the filing of this Hold Separate Stipulation and Order, Harsco shall appoint one or more persons who shall have complete managerial responsibility for the Switch and Crossing Grinding Assets, subject to the provisions of this Order and the proposed Final Judgment, until such time as this Order is terminated. In the event that such manager(s) is unable to perform his or her duties, Harsco shall appoint from the current management of the Switch and Crossing Grinding Assets, subject to the plaintiff's approval, a replacement within ten (10) working days. Should Harsco fail to initially appoint a manager acceptable to the United States, or fail to appoint any replacement required within ten (10) working days, the United States shall appoint the manager.

K. Harsco shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divesture pursuant to the proposed Final Judgment to a suitable purchaser.

L. This Order shall remain in effect until the divestiture of the Switch and Crossing Grinding Assets required by the proposed Final Judgment is complete, or until further Order of the Court.

Dated: October 14, 1999.

For Plaintiff United States of America:

John F. Greaney, Esquire

U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20005, (202) 305–9965.

For Defendant Harsco Corporation:

Dale Hershey, Esquire

Timi E. Nickerson, Esquire, DC Bar #457231, Eckert Seamans Cherin & Mellott, LLC, USX Tower, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566–6058.

For Defendants Pandrol Jackson Limited, and Pandrol Jackson Inc.:

Wayne Dale Collins, Esquire

DC Bar #430266, Shearman & Sterling, 599 Lexington Ave., New York, NY 10022–6069, (212) 848–4127.

IT IS ORDERED by the Court, this ____ day of October, 1999.

_____

United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America, and defendants Harsco Corporation (''Harsco''), Pandrol Jackson Limited, and Pandrol Jackson Inc. (collectively ''Pandrol''), 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 having consented that this Final Judgment shall settle all claims made by plaintiff in its Complaint filed October 14, 1999;

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, in the event of the acquisition of certain assets of Pandrol by Harsco, the prompt and certain divestiture of the identified assets to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendant Harsco to make a divestiture for the purpose of establishing a viable competitor in the manufacture and sale of switch and crossing grinding equipment and services specified in the Complaint.

And whereas, defendant Harsco has represented to the plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, 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. ''Harsco'' means defendant Harsco Corporation, a Delaware corporation with its corporate headquarters in Camp Hill, Pennsylvania, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. ''Charter'' means defendant Charter plc, a United Kingdom corporation, with its corporate headquarters in London, England, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents and employees.

C. ''Pandrol'' means defendant Pandrol Jackson Limited, a United Kingdom corporation, with its corporate headquarters in Surrey, England and defendant Pandrol Jackson Inc., with its corporate headquarters in Lundington, Michigan, both of which are indirectly owned by Charter, and their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employee: Pandrol submit to the jurisdiction of this Court solely for purposes of this action to permit the contemplated sale of assets of Harsco; nothing contained herein shall be deemed an admission of personal jurisdiction or an appointment of any agent for service of process for any other purpose.

D. ''Switch and Crossing Grinding Equipment'' means rail grinders and any related equipment used to remove surface irregularities and restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings, thereby providing longer rail life and reducing the wear on rolling stock and track components.

E. ''Switch and Crossing Grinding Services'' means switch and crossing grinding services provided commercially to railroads and transit systems.

F. ''Switch and Crossing Grinding Assets'' means all of the assets acquired by Harsco from Pandrol related to the Switch and Crossing Grinding Equipment manufactured by Pandrol and to the Switch and Crossing Grinding Services provided by Pandrol inclusive of all tangible and intangible assets used in the manufacture and sale of Switch and Crossing Grinding Equipment and the providing of Switch and Crossing Grinding Services, including all intellectual property rights, technical information, know-how, trade secrets, blueprints, licenses, permits, product trade names (other than the ''Jackson'' name), product trade dress, tooling, existing inventory and work in progress, accounts receivable, pertinent correspondence, files and databases, books of account, customer lists, supplier lists, advertising materials, contracts with third parties (to the extent assignable), but not including any manufacturing or assembly facility, or any real estate owned or leased by Harsco or Pandrol.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, 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. Defendant Harsco shall require, as a condition of the sale of all or substantially all of its assets or of its Switch and Crossing Grinding Equipment and Services business, that the purchaser or purchasers agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendant Harsco is hereby ordered and directed, in accordance with the terms of this Final Judgment, within thirty (30) calendar days after the filing of the Hold Separate Stipulation and Order in this case, to sell the Switch and Crossing Grinding Assets as a viable ongoing business to a purchaser acceptable to the United States in its sole discretion.

B. Defendant Harsco shall use its best efforts to accomplish said divestiture as expeditiously as possible. The United States, in its sole discretion, may extend the time for the divestiture for an additional period not to exceed thirty (30) calendar days.

C. In accomplishing the divestiture ordered by this Final Judgment, defendant Harsco shall make known promptly, by usual and customary means, the availability of the Switch and Crossing Grinding Assets. Defendant Harsco 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. Defendant Harsco shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding these assets customarily provided in a due diligence process, except such information as is subject to attorney-client privilege or attorney work-product privilege. Defendant Harsco shall make such information available to the United States at the same time that such information is made available to any other person.

D. As customarily provided as part of a due diligence process, defendant Harsco shall permit prospective purchasers of the Switch and Crossing Grinding Assets to have access to personnel and to make inspection of such assets and any and all financial, operational, or other documents and information.

E. Defendant Harsco shall not interfere with any negotiations by any purchaser to employ any current or former Pandrol employee who works or has worked at, or whose principal responsibility concerns or has concerned, any aspect of the Switch and Crossing Grinding Assets.

F. Defendant Harsco shall not take any action, direct or indirect, that would impede in any way the operation of any business connected with the assets to be divested, or take any action, direct or indirect, that would impede the divestiture of any such asset.

G. Defendant Harsco shall warrant to the purchaser of the Switch and Crossing Grinding Assets that the assets will be operational on the date of sale.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, whether by defendant Harsco or by trustee appointed pursuant to Section VI of this Final Judgment, shall include the entire Switch and Crossing Grinding Assets. Such divestiture shall be accomplished by selling or otherwise conveying the assets to a purchaser or purchasers in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be used by the purchaser as a viable ongoing business, engaged in the switch and crossing grinding business. The divestiture, whether pursuant to Section IV or Section VI of this Final Judgment, shall be made to a purchaser who, as demonstrated to the United States' sole satisfaction: (1) Has the capability and intent of competing effectively in the switch and crossing grinding business; (2) has or soon will have the managerial, operational, and financial capability to compete effectively in the switch and crossing grinding business; and (3) is not hindered by the terms of any agreement between the purchaser and defendant Harsco which gives defendant Harsco the ability unreasonably to raise the purchaser's costs, lower the purchaser's efficiency, or otherwise interfere with the ability of the purchaser to compete.

V. Notice of Proposed Divestiture

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, the proposed divestiture pursuant to Section IV or VI of this Final Judgment, defendant Harsco or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. The notice shall set forth the details of the proposed transaction and shall 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 business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States of a divestiture notice, the United States, in its sole discretion, may request from defendant Harsco, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Defendant Harsco 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 the United States has been provided the additional information requested from the defendant Harsco, the proposed purchaser, and any third party, whichever is later, the United States shall provide written notice to defendant Harsco and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendant Harsco (and the trustee, if applicable) that it does not object, then the divestiture may be consummated, subject only to defendant Harsco's limited right to object to the sale under Section VI(B) of this Final Judgment. Upon objection by the United States, a divestiture proposed under Section IV or Section VI may not be consummated. Upon objection by defendant Harsco under the provision in Section VI(B), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VI. Appointment of Trustee

A. In the event that defendant Harsco has not divested the Switch and Crossing Grinding Assets within the time period specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States in its sole discretion, to effect the divestiture of such assets. The trustee shall have the right, in its sole discretion, and upon notice to the defendant Harsco and approval of the United States, to require the divestiture of additional related assets reasonably necessary to divest the Switch and

Crossing Grinding Assets as a viable stand-alone business. In any such event, all of the obligations of the defendant Harsco under the Final Judgment shall apply to the additional assets as well.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to divest the assets. The trustee shall have the power and authority to accomplish the divestiture of the assets at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section VI(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of the defendant Harsco any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser or purchasers acceptable to the United States, in its sole discretion, and shall have such other powers as the Court shall deem appropriate. Defendant Harsco shall not object to a divestiture by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendant Harsco must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section V of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendant Harsco, 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 defendant Harsco 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 assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished.

D. Defendant Harsco shall use its best efforts to assist the trustee in accomplishing the required divestiture, including its best efforts to effect all necessary 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 relating to the assets to be divested, and defendant Harsco shall develop such financial or other information relevant to the assets to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendant Harsco shall permit prospective purchasers of the Switch and Crossing Grinding Assets, or other assets being sold by the trustee, 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 divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the plaintiff, defendant Harsco, and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in any of the assets 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 sell the assets to be divested.

F. If the trustee has not accomplished such divestiture 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 divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has 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 plaintiff and defendant Harsco, 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 for a period of time requested by the United States.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed pursuant to Section IV or VI of this Final Judgment, defendant Harsco shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the assets 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 defendant Harsco has taken to solicit a buyer for any and all of the Switch and Crossing Grinding Assets and to provide required information to prospective purchasers, including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter, defendant Harsco shall deliver to plaintiff an affidavit which describes in detail all actions defendant Harsco has taken and all steps defendant Harsco has implemented on an ongoing basis to preserve the Switch and Crossing Grinding Assets, pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, defendant Harsco's efforts to maintain and operate the Switch and Crossing Grinding Assets as an active competitor, maintain the management, staffing, sales, marketing and pricing of such assets, and maintain the assets in operable condition at current capacity configurations. Defendant Harsco shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in defendant Harsco's earlier affidavit(s) filed pursuant to Section VII.B. within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, defendant Harsco shall preserve all records of all efforts made to preserve

the Switch and Crossing Grinding Assets and to effect the ordered divestiture.

VIII. Hold Separate Order

Until the divestiture required by the Final Judgment has been accomplished, defendant Harsco shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendant Harsco shall take no action that would jeopardize the sale of the Switch and Crossing Grinding Assets.

IX. Financing

Defendant Harsco is ordered and directed not to finance all or any part of any acquisition made pursuant to Sections IV or VI of this Final Judgment.

X. Notification of Future Acquisitions

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), defendant Harsco, without providing advance notification to Department of Justice, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any person that, at any time during the twelve (12) months immediately preceding such acquisition, was engaged in the manufacture or sale of Switch and Crossing Grinding Equipment or the provision of Switch and Crossing Grinding Services. Such notification shall be provided to the Department of Justice in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended. 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 the Department of Justice make a written request for additional information, defendant Harsco shall not consummate the proposed transaction or agreement until (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.

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 United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Harsco made to its principal office, shall be permitted:

(1) Access during office hours of defendant Harsco to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant Harsco, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant Harsco and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, defendant Harsco shall submit such written reports, under oath if requested, with respect to any matter contained in the final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections VI, VII, or XI of this Final Judgment shall be divulged by a representative of the United States 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 United States is 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 defendant Harsco to the United States, defendant Harsco represents and identifies in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant Harsco marks each pertinent page of such material, ''subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days' notice shall be given by the United States to defendant Harsco prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant Harsco is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 1999.

_____

United States District Judge

Competitive Impact Statement

The United States, 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.

Nature and Purpose for the Proceeding

On October 14, 1999, the United States filed a civil antitrust Complaint alleging that the proposed acquisition of assets of Pandrol Jackson Limited and Pandrol Jackson Inc. (collectively ''Pandrol'') by Harsco Corporation (''Harsco'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18, with respect to the manufacture an sale of switch and crossing and transit grinding equipment and the provision of switch and crossing and transit grinding services to railroads and transit systems throughout North America. The Complaint alleges that Harsco and Pandrol are the only two producers of such equipment and providers of such services in North America. The request for relief seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; (2) injunctive relief preventing

consummation of the proposed acquisition; (3) an award of costs to the plaintiff; and (4) such other relief as the Court may deem just and proper.

When the Complaint was filed, the United States also filed a proposed Final Judgment and a Hold Separate Stipulation and Order that wool settle the lawsuit. The proposed settlement permits Harsco to acquire the assets of Pandrol, but requires a divestiture that will preserve competition in the relevant product markets alleged in the Complaint. The proposed Final Judgment requires the defendants to divest switch and crossing grinding assets, as defined in the proposed Final Judgment, acquired by Harsco from Pandrol related to the switch and crossing grinding equipment manufactured by Pandrol and to the switch and crossing grinding services provided by Pandrol. Switch and crossing grinding equipment manufactured by Pandrol includes rail grinders and any related equipment used to remove surface irregularities and to restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings. Switch and crossing grinding services includes such services provided by contract to railroads and transit systems. Defendants must accomplish this divestiture within thirty (30) calendar days after the filing of the proposed Final Judgment to a purchaser acceptable to the Antitrust Division of the United States Debarment of Justice (''DOJ''). If the defendants do not do so within the time frame in the proposed Final Judgment, a trustee appointed by the Court would be empowered for an additional six months to sell those assets. If the trustee is unable to do so in that time, the Court could enter such orders as it shall deem appropriate to carry out the purpose of the trust which may, if necessary, include extending the trust and the trustee's appointment by a period requested by the United States.

In addition, under the terms of the Hold Separate Stipulation and Order, the defendants must hold specified assets to be divested separate and apart from its other businesses until the required divestiture has been accomplished. Defendants must, until the required divestiture is accomplished, preserve and maintain the specified assets to be divested as saleable and economically viable ongoing concerns.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the 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. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Harsco is a Delaware corporation, with its corporate headquarters and principal place of business in Camp Hill, Pennsylvania. In 1998, Harsco reported revenues of $1.7 billion. It manufactures switch and crossing grinding equipment in Fairmont, Minnesota. In 1998, its sales of switch and crossing grinding services were about $3.7 million in North America, with about $3.2 million of this amount to customers in the United States.

Charter plc (''Charter'') is a corporation organized and existing under the laws of the United Kingdom. In 1998, it had revenues of approximately $2 billion. Charter controls Pandrol Jackson Limited and Pandrol Jackson Inc. (collectively ''Pandrol'') through a wholly owned subsidiary. Pandrol Jackson Limited maintains its principal place of business in Surrey, United Kingdom. Pandrol Jackson Inc. is a Delaware corporation, with its corporate headquarters and principal place of business in Ludington, Michigan. Pandrol manufactures rail grinders at its plant in Ludington, Michigan. During 1998, Pandrol had sales of about $101 million, including $5.7 million in sales of switch and crossing grinding services and equipment in North America, $4.3 million of which was from sales to customers in the United States.

On or about January 30, 1998, Harsco entered into an Asset Purchase and Liability Assumption Agreement (''Agreement'') with Charter to acquire the switch and crossing and transit grinding equipment and the switch and grinding services of Pandrol for consideration equal to about $89 million. This transaction, which would give Harsco a monopoly of the manufacture and sale of switch and crossing grinding equipment (including transit grinders) and of switch and crossing grinding services in North America, precipitated the government's suit.

B. The Market

Rail grinders are used because, over time, the rubbing of train wheels on the tracks deforms the profile of the rails. These deformations, if allowed to continue, cause the rail to wear out prematurely. Switch and crossing grinders are designed to restore the rail used in railroad track switches and railroad track crossings to its original shape, thereby prolonging its useful life. Transit grinders are smaller grinders, like switch and crossing grinders, which are used to perform the same function of restoring rail for transit systems. Although transit systems in North America typically purchase transit grinders, railroads usually contract for grinding services from providers of switch and crossing grinding services. Harsco and Pandrol are the only providers of these services in North America. No imports of switch and crossing and transit grinders are made into North America and switch and crossing grinding services are provided throughout North America only by firms that manufacture such grinders in the United States.

C. Harm to Competition as a Result of the Proposed Transaction

Harsco and Pandrol compete with each other in the production and sale of switch and crossing and transit grinders and in providing switch and crossing grinding services in North America—a market which is now highly concentrated and which would become a monopoly as a result of the proposed acquisition. Harsco and Pandrol are the only two producers of this equipment, and the only suppliers of these services. The proposed transaction would eliminate the direct competition between Harsco and Pandrol that has benefited consumers, and likely lead to higher prices.

Moreover, new entry into the production and sale of switch and crossing and transit grinders and in providing switch and crossing grinding services is unlikely to occur and unlikely to be timely or sufficient to defeat a post-acquisition price increase.

III. Explanation of the Proposed Final Judgment

The relief described in the proposed Final Judgment will eliminate the anticompetitive effects of this transaction by establishing a new, independent, and economically viable competitor in each of the affected markets. The proposed Final Judgment requires Harsco to divest the switch and crossing grinding assets of Pandrol as a viable ongoing business to a purchaser acceptable to the United States in its sole discretion. This divestiture must take place within 30 days of the filing of the Hold Separate Stipulation and Order in this case unless the United States in its sole discretion extends the time for the divestiture for an additional period not to exceed 30 days. If the

divestiture has not been accomplished within these time periods, then a trustee selected by the United States, in its sole discretion, shall be appointed to sell the Pandrol switch and crossing grinding assets to a purchaser who will use the assets as a viable ongoing business engaged in the switch and crossing grinding business. Under the proposed Final Judgment, the trustee has the right to require divestiture of additional related assets if reasonably necessary to divest the switch and crossing grinding assets as a viable stand-alone business.

If a trustee is appointed, the proposed Final Judgment provides that the defendants will pay all costs and expenses of the trustee. After the trustee's appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestiture. At the end of six months, if no divestiture has been accomplished, the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust and the term of the trustee's appointment.

The proposed Final Judgment specifies that the required divestiture shall be made to a purchaser who, as demonstrated to the sole satisfaction of the United States, has the capability and intent, as well as the managerial, operational, and financial capability to compete effectively in the switch and crossing grinding business and who is not hindered by the terms of any agreement between it and Harsco under which Harsco possesses the ability unreasonably to raise the purchaser's costs, lower its efficiency, or otherwise interfere with its ability to compete. Pending the required divestiture, Harsco must maintain and separately operate the switch and crossing grinding assets as an independent competitive business, with management, research, development, production, sales and operation of such assets held entirely separate, distinct and apart from those of Harsco. The divestiture required by the proposed Final Judgment is designed to ensure that the competition that would be eliminated by the proposed acquisition will be preserved and maintained.

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 United States and 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 United States 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 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States 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 United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to: J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits. The United States is satisfied that the divestiture required by the proposed Final Judgment will maintain viable competition in the relevant product market alleged in the Complaint and will effectively prevent the anticompetitive effects that the Complaint alleges would result from the proposed acquisition.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-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 Court of Appeals for the District of Columbia circuit held, the APPA 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, 1458–62 (D.C. Cir. 1995). The courts have recognized that the term ''public interest' take[s] meaning from the purposes of the regulatory legislation.'' *NAACP* v. *Federal Power Comm'n,* 425 U.S. 662, (1976). Since the purpose of the antitrust laws is to preserve ''free and unfettered competition as the rule of trade,'' *Northern Pacific Railway Co.* v. *United States,* 356 U.S. 1, 4 (1958), the focus of the ''public interest'' inquiry under the APPA is whether the proposed Final Judgment would serve the public interest in free and unfettered competition. *United States* v. *American Cyanamid Co.* 719 F.2d 558, 565 (2d Cir. 1983), *cert. denied,* 465 U.S. 1101 (1984); *United States* v.*Waste Management Inc.,* 1985–2 Trade Cas. ¶ 66.651, at 63,946 (D.D.C. 1985). In conducting this inquiry, ''the 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 Diarymen, Inc.,* 1977–1 trade Cas. ¶ 61,508, to 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), *quoting 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 1448 (D.C. Cir. 1995). 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]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

> waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation . Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States v. *Armour & Co.* 402 U.S. 673, 681 (1971).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed 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.' (citations omitted).'' [3]

VIII. Determinative Documents

There were no determinative documents, within the meaning of the APPA, that were considered by the United States in formulating the proposed Final Judgment.

Dated: November 8, 1999.

For Plaintiff United States of America.

John F. Greaney,

Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, DC 20530, Telephone: (202) 305–9965, Facsimile: (202) 307–5802.

Certificate of Service

I hereby certify that I caused a copy of the foregoing Competitive Impact Statement to be served by first class mail, postage prepaid, this 8th day of November, 1999, on:

Dale Hershey, Esquire,

Eckert Seamans Cherin & Mellott, LLC, USX Tower, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566–6058.

Counsel for Defendant Harsco

Wayne Dale Collins, Esquire,

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Counsel for Defendants Pandrol Jackson Limited and Pandrol Jackson Inc.

Dated: November 8, 1999.

John F. Greaney, Esquire.,

Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.—Suite 3000, Washington, D.C. 20530, (202) 305–9965

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[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. 93–1463, 93rd Cong. 2d. Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel,* 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.,* 858 F.2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.,* 719 F.2d at 565.

[3] *United States* v. *American Tel. and Tel Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co., supra,* 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985)

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to fund the project ''Effective Prison Mental Health Services''. NIC will award a one year cooperative agreement to: develop a handbook or manual that will provide information to state correctional agencies in identifying current practices, policies, and procedures and their impact on offenders with mental health disorders.

A cooperative agreement is a form of assistance relationship where the National Institute of Corrections is substantially involved during the performance of the award. An award is made to an organization that will, in concert with the Institute, identify the ''effective practices and intervention'' regarding the care and management of offenders with mental health problems.

Background

According to recent estimates, nearly 95,000 (12.5%) of all prison inmates have significant psychiatric problems, problems requiring intermittent care, and 54,000 (7%) have serious mental health problems. Research indicates persons displaying the signs and symptoms of mental disorders are more likely to be arrested than members of the general public, and more likely to be incarcerated for violent offenses compared to the rest of the inmate population. The prevalence of offenders with a mental disorder among correctional populations presents enormous challenges to correctional personnel. Limited availability of in prison treatment programs, coupled with the lack of community resources, enhance the likelihood that their mental disorders may cause them to recidivate, often returning with a worst condition. There is a paucity of information about in-prison mental health programs and services, transition and community mental health services for released offenders, and effective linkages between prison systems and state and local mental health systems/departments.

Purpose

To document and make available to correctional practitioners and state mental health providers the current knowledge on effective mental health services and interventions for mentally ill offenders in prisons.

Objectives:

1. To develop a publication that addresses the effective management and care, treatment modalities, their effectiveness, and innovative approaches for offenders with mental health needs; and
2. To develop a consistent operational definition of an offender with mental health needs.

NIC considers it important for the applicant to discuss how the following questions or other criteria identified by the applicant would be employed for documenting effective prison mental health services and interventions:

• Are there explicit models or research evidence of how the mental health services or interventions are supposed to work within prisons?

• Is there information or substantiation that mental health services and interventions employs methods which have been consistently effective with mentally ill offenders in prison?

• Are the services or interventions delivered in ways which engage the mentally ill offender in active participation—e.g., responsivity?

• Are the services or intervention(s) rigorously managed and designed?

• Do the mental health services support the principle of continuum of care—e.g., screening, assessment for diagnosis and risk, treatment planning, range of interventions, transitional care from prison to the community, relapse prevention and intervention, and linkages to appropriate community mental health and other support services?

• What evidence or information is available that services or interventions are delivered and overseen by qualified professionals consistent with generally accepted protocols—i.e., valid assessment and screening tools, treatment interventions matched to the level of the offender need, case management strategies, treatment providers who are licensed and meet specific standards, etc.?

• What research efforts have been conducted to assess the effectiveness of the intervention being reviewed by the project?

Project Scope

The project's strategy or design should address the following areas:

—Screening and assessment
—Intervention techniques
—Community and aftercare linkages
—Treatment approaches
—Case management
—Relapse Prevention or Intervention
—Planning
—Transitional services
—Staff Training
—Peer Support
—Alternative Sanctions
—Instruments to assess, develop or identify treatment programs
—Individualized Treatment approaches
—Cultural competency
—Gender based treatment
—Monitoring, evaluating program integrity.

The successful applicant would be required to: (1) Use some portion of the funds to collaborate with other correctional and mental health professionals (experts) to review the current state of mental health programs in corrections; (2) Develop an understanding of the types of behavior which indicate mental health needs and develop a consistent operational definition of an offender with a mental disorder; (3) Identify sample programs, addressing relevant standards and legal issues; (4) Develop a document for practitioners that presents guidelines and criteria for successful mental health programs specific incarcerated populations, including youthful offenders, women offenders, segregation, and general populations; (5) Fully discuss how in-prison mental health programs can assist in public protection and the more effective use of community resources, and; (6) Provide an instrument to be used to assess effective in-prison mental health programs.

—In consultation with NIC prepare and edit a final camera-ready copy of the document for NIC publication in accordance with the NIC Preparation of Printed Materials for Publication. Submit the final product in hard copy and Word Perfect format.

Application Requirement

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Applicant should provide an implementation plan for the project and include a schedule which will demonstrate milestones for significant tasks in chart form. The project will be initiated in early 2000 and is to be completed in early 2001.

Authority

Public Law 93–415.

Funds Available

The award will be limited to a maximum of $150,000 (direct and indirect costs). Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. This project will be a collaborative venture with the NIC Prisons Division.

Deadline for Receipt of Applications

Applications must be received by 4:00 pm Eastern Time on Tuesday, December 21, 1999. Applications mailed or express delivery should be sent to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attn: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley (307–3106 and press 0) to come to the desk for pickup.

Addresses and Further Information

Requests for the application kit should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can also be contacted by E-mail via jevens@bop.gov. All technical and or programmatic questions concerning this announcement should be directed to Madeline M. Ortiz at the above address or by calling (800) 995–6423, extension 141 or (202) 307–1300, extension 141, or by E-mail via mmortiz@bop.gov. A copy of this announcement and application forms may also be obtained through the NIC web site: http://www.nicic.org (click on ''What's New'' and ''Cooperative Agreements'').

Eligible Applicants

An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, or individual with expertise in correctional mental health services.

Review Considerations

Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

00P10 This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contract (SPOC), a list of which is included in the application Kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is 16.603.

Dated: November 18, 1999.

Larry Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 99–30770 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Availability of Funds in FY 2000 for a Cooperative Agreement to Develop the Training Curriculum, How to Develop Management Training

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to develop the training curriculum, How to Develop Management Training.

The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a standard, core curriculum for training persons responsible for the development of management training for supervisors and administrators within juvenile corrections and detention settings. To enable the Institute to offer state-of-the-art guidance for the development of management training, the award recipient will develop a 32-hour training curriculum including an instructors' guide with lesson plans, computer-generated view graphs to support the curriculum, and participant manual. The 32-hour curriculum will provide juvenile corrections and detention trainers multiple development and delivery methods and strategies to construct management training within their agencies that will equip managers with the core competencies to perform effectively. (It is not within the scope of this cooperative agreement to provide piloting or direct delivery of the curriculum.)

The award recipient will become familiar with the management and leadership training programs currently being offered at NIC. The recipient will utilize this information, as well as contribute to the development of new information on management practices most desirable in today's rapidly changing juvenile corrections and detention environment.

As a collaborative venture with the NIC Academy Division, the recipient will develop training outcomes for the project in partnership with the NIC project manager. Funding for this cooperative agreement comes from an Interagency Agreement (IAA) between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and NIC. A total of $30,000 is reserved for the project which will support one cooperative agreement for a 6-month period. The recipient of the award will be selected through a competitive solicitation process. Steven Swisher, Correctional Program Specialist (CPS), is the designated NIC project manager.

Background

Well-trained, effective managers and leaders within juvenile corrections and detention agencies have been a focus of the training and services the NIC has provided through an IAA with OJJDP over the past nine years. As a part of that IAA and as a result of a national juvenile training needs assessment conducted in the fall of 1998, curricula and services for training staff continue to be identified as critical in capacitating juvenile correctional and detention agencies to develop and sustain effective management and leadership within their organizations. Through this work, NIC and OJJDP recognize the need for a training curriculum that specifically addresses the development of training for training staff charged with management training within their organization.

Purpose

This project is intended to provide juvenile corrections and detention training persons with:

- A training curriculum that provides trainers with an in-depth understanding and skills to develop dynamic and versatile management training for staff within their agencies.
- An interactive training format minimally using an instructor's guide, computer-generated view graphs to support the curriculum content and a participant manual with a record of core principles, practices, and methods learned in the training experience.

Project Content

The award recipient will propose strategies and effective models for developing and implementing management training in juvenile corrections and detention settings. The award recipient will develop modules addressing current and future core competencies that would support effective management practices. The recipient will also develop modules to address innovative training delivery strategies juvenile agencies can utilize to overcome existing barriers such as lack of resources or expertise, among others, to meet their management training needs.

A. Required Activities

- Consult with the NIC Academy Correctional Program Specialist on an agreed time line to assure progress and understanding of the scope of work.
- Conduct a preliminary review of the National Juvenile Justice Training Needs Assessment Proceedings, November 1998.
- Thoroughly review any other existing training materials developed by NIC, OJJDP or other agencies for relevant parts that could be re-written for application to this project.
- Using the Course Title, Description, Objectives and other relevant information, conduct and facilitate necessary planning meetings with content experts (selected with input from CPS) to generate the framework, concepts, modules, content, strategies and performance objectives. (All of above is subject to final approval by CPS. Final curriculum Title, Course Description and Objectives will be developed collaboratively with the CPS).
- Assign and coordinate writing, development and revisions of the modules and content areas for the curriculum, including multi-media materials.
- Develop, edit, revise, format, and package curriculum, lesson plans, computer-generated view graphs, audiovisual aids and other course material. The package will include an Instructors Guide/Manual, Participant Manual, and any other supporting materials for the curriculum. Each phase of the training instruction will have a separate, tabbed section in the manual. The first page of each section of the materials should set forth the performance objectives for the module. Pages within the section should be consecutively numbered in the order in which they will be used during the

training following the NIC-recommended numbering formula.

• Obtain written permission from the publisher to duplicate any copyrighted materials.

• Research, develop, procure and provide strategies, multi-media and written materials to demonstrate recent developments in management and leadership theory and training.

• Acquire, review, and incorporate relevant and current leadership and management materials.

• Submit preliminary draft for review by CPS project manager per the specified time line. Make revisions and submit second draft if requested.

• Prepare all materials using WordPerfect 7.0 or higher word processing software and Corel Presentations (visuals) and submit final copies of all materials on 3.5″ computer disks (or zip drive disks) and in ''camera ready'' hard copy format (2 paper copies).

• Submit the curriculum package to the CPS project manager for final approval.

B. Curriculum Requirements

• All material must be submitted in hard copy that is ''camera ready'' and on 3.5″ computer disk (or zip drive disks).

• WordPerfect 7.0 or higher must be the software used in an IBM compatible computer with Windows operating system. All visuals must be created using Corel Presentation software.

• All lesson plans shall conform to the Instructional Theory Into Practice (ITIP) standards. They must be in the NIC Academy Lesson Plan Format, using a narrative script and trainer notes, and incorporate the critical elements of ITIP lesson design. Lesson plans, handouts and view graphs are to be in a consistent format throughout the curriculum. Each module should follow the Module Framework, with appropriate and accurate identification, numbering and sequencing. See ''Addresses and Further Information'' for information on how to obtain these documents.

• Each module should be a complete package; that is, it should include all materials necessary to teach that module, including a separate and independent delivery based on a special or unique request for that specific module.

• All material produced shall become the property of the U.S. Government and shall be delivered to NIC upon completion of this project.

Authority: Pub. L. 93–415.

Funds Available

The award will be limited to a maximum total of $30,000 (direct and indirect costs) and project activity must be completed within 6 months of the date of the award. Funds may only be used for the activities that are linked to the desired outcomes of the project.

All products from this funding effort will be in the public domain and available to interested agencies through the National Institute of Corrections.

Deadline for Receipt of Applications

Applications must be received by 4:00 p.m. Eastern Time on Thursday, December 16, 1999. They should be addressed to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attention: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information

The application kit consists of a copy of this announcement, copies of the required forms, and a copy of the ''National Juvenile Justice Training Needs Assessment Proceedings, November, 1998'', a document entitled ''Designing Training for the National Institute of Corrections Academy: Instructional Theory Into Practice'', and samples of the required curriculum format.

A hard copy of this application kit may be obtained from Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can be contacted by E-mail via *jevens@bop.gov.*

A copy of this announcement, required forms and referenced documents may also be obtained through the NIC website: *http://www.nicic.org.* (Click on ''What's New'' and ''cooperative agreements''.)

All technical and/or programmatic questions concerning this announcement should be directed to Steve Swisher, Correctional Program Specialist at the National Institute of Corrections, 1960 Industrial Circle, Suite A, Longmont, Colorado 80501, or by calling (800) 995–6429, extension 126, or by E-mail via *sswisher@bop.gov.*

Eligible Applicants

An eligible applicant is any state or general unit of local government, public or private agency, educational institution, private or non-profit organization, individual, or team with expertise in the instructional design or training, computer-generated audio-visual training aids, and related training materials.

Review Considerations

Applications received under this announcement will be subjected to an NIC three-to-five-member Peer Review Process.

Number of Awards

One (1)

NIC Application Number (00A12)

This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

The Catalog of Federal Domestic Assistance number is: 16.601.

Larry Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 99–30769 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–36–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 Secretary 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

Massachusetts
MA990001 (Mar. 12, 1999)
MA990002 (Mar. 12, 1999)
MA990003 (Mar. 12, 1999)
MA990005 (Mar. 12, 1999)
MA990007 (Mar. 12, 1999)
MA990010 (Mar. 12, 1999)
MA990013 (Mar. 12, 1999)
MA990015 (Mar. 12, 1999)
MA990017 (Mar. 12, 1999)
MA990018 (Mar. 12, 1999)
MA990019 (Mar. 12, 1999)
MA990020 (Mar. 12, 1999)
MA990021 (Mar. 12, 1999)

Volume II

Pennsylvania
PA990009 (Mar. 12, 1999)

Volume III

South Carolina
SC990033 (Mar. 12, 1999)
SC990037 (Mar. 12, 1999)
Tennessee
TN990062 (Mar. 12, 1999)

Volume IV

Minnesota
MN990007 (Mar. 12, 1999)
MN990008 (Mar. 12, 1999)
MN990039 (Mar. 12, 1999)
MN990058 (Mar. 12, 1999)
MN990059 (Mar. 12, 1999)
MN990061 (Mar. 12, 1999)

Volume V

Missouri
MO990005 (Mar. 12, 1999)

Volume VI

South Dakota
SD990002 (Mar. 12, 1999)
SD990024 (Mar. 12, 1999)

Volume VII

California
CA990001 (Mar. 12, 1999)
CA990009 (Mar. 12, 1999)
CA990028 (Mar. 12, 1999)
CA990029 (Mar. 12, 1999)
CA990032 (Mar. 12, 1999)
CA990033 (Mar. 12, 1999)
CA990035 (Mar. 12, 1999)
CA990036 (Mar. 12, 1999)
CA990038 (Mar. 12, 1999)
CA990039 (Mar. 12, 1999)
CA990040 (Mar. 12, 1999)
Hawaii
HI990001 (Mar. 12, 1999)

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, D.C. 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 18th day of November 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–30594 Filed 11–25–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period

of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 10, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Health and Human Services, Health Care Financing Administration (N1–440–99–3, 1 item, 1 temporary item). Responses to Congressional referrals of public correspondence to the agency concerning the ''condition of participation'' rules for Medicare and Medicaid published in the **Federal Register** in the summer of 1980. Included are letters from the public, referral letters from Congressional offices, and HCFA's responses.

2. Department of Interior, Bureau of Land Management (N1–49–98–2, 10 items, 4 temporary items). Data used in geographic information systems and contained in resources inventory and survey files that are unaltered or minimally altered upon receipt from other Federal agencies, state and local agencies, or commercial sources or that do not support significant projects or decisions. Data that have been modified substantially or that are uniquely created by the agency are proposed for permanent retention.

3. Department of the Interior, Bureau of Land Management (N1–49–99–2, 10 items, 10 temporary items). Records relating to information technology security. Included are statements of responsibility, computer security incident reports, documents on access to systems, security and contingency plans, risk assessments, and electronic copies of documents created using electronic mail and word processing.

4. Department of Interior, Bureau of Land Management (N1–49–99–3, 2 items, 2 temporary items). Fire dispatch audio tapes that cover routine fire season dispatch activities and year-round required aircraft check-in with dispatch control. Also included are electronic copies of fire management files created using electronic mail and word processing.

5. Department of State, Bureau of South Asian Affairs (N1–59–99–12, 9 items, 6 temporary items). Records of the Assistant Secretary and Staff Assistants, including electronic calendars, staff assistant files, and trip files. Also included are electronic copies of documents created using electronic mail and word processing. The Assistant Secretary's program files, briefing books, and the Assistant Secretary's calendar books are proposed for permanent retention.

6. Department of State, Bureau of South Asian Affairs (N1–59–99–13, 10 items, 8 temporary items). Records relating to the administration of Department activities concerning Pakistan, Afghanistan, and Bangladesh, including subject files, chronological files, and biographic files. Also included are electronic copies of documents created using electronic mail and word processing. An historical document file and briefing books are proposed for permanent retention.

7. Department of State, Bureau of South Asian Affairs (N1–59–99–14, 12 items, 10 temporary items). Records relating to the administration of Department activities concerning India, Nepal, and Sri Lanka, including subject files, chronological files, and biographic files. Also included are electronic copies of documents created using electronic mail and word processing. An historical document file and briefing books are proposed for permanent retention.

8. Department of State, Bureau of South Asian Affairs (N1–59–99–15, 14 items, 11 temporary items). Administrative files, subject files, and press/media reports accumulated by the Bureau's Office of Regional Affairs. Also included are electronic copies of documents created using electronic mail and word processing. Mission and Bureau performance plans are proposed for permanent retention.

9. Department of the Treasury, Internal Revenue Service (N1–58–00–1, 4 items, 4 temporary items). Reports and workpapers relating to procedures used

by Federal, state, and local agencies to protect Federal tax information.

10. Environmental Protection Agency, Office of Policy (N1–412–96–2, 2 items, 2 temporary items). Electronic copies of documents pertaining to information collection created using electronic mail and word processing. This schedule also proposes an increase in the retention period for recordkeeping copies of these files, which were previously approved for disposal.

11. Environmental Protection Agency, Agency-wide (N1–412–99–4, 2 items, 2 temporary items). Motor vehicle recall and in-use testing records, including listings of vehicle owners, forms, and correspondence. Also included are electronic copies of documents created using electronic mail and word processing.

12. National Aeronautics and Space Administration, Agency-wide (N1–255–99–2, 5 items, 5 temporary items). Inspections and proof reports, including paper records, photographs, electronic media, and electronic copies of documents created using electronic mail and word processing. The records include certifications of acceptance and results of tests done at NASA testing centers to verify that new components meet manufacturer specifications.

13. National Aeronautics and Space Administration, Agency-wide (N1–255–99–3, 5 items, 5 temporary items). Records relating to NASA's quality management program and to quality assurance testing of ground-based pressure systems, including electronic copies of documents created using electronic mail and word processing. Quality management program records include audits, evaluations, and corrective action documents. Records relating to the testing of ground-based pressure systems include correspondence, inspection reports, and all other documentation associated with these tests.

14. National Archives and Records Administration, Office of Presidential Libraries (N1–64–00–2, 4 items, 3 temporary items). Researcher case files containing researcher applications, access requests, correspondence, and reproduction orders. Also included are electronic copies of documents created using electronic mail and word processing. Case files for researchers who have produced significant and/or controversial research are proposed for permanent retention.

15. Panama Canal Commission, Agency-wide (N1–185–98–1, 15 items, 15 temporary items). Electronic versions of previously-scheduled paper records created by the agency's climatological, hydrological, and meteorological data systems. The records consist of scientific and weather observational data, such as wind speed and direction, air temperature, relative humidity, dew point, barometric pressure, solar radiation, rainfall, and river, lake, and tide elevations.

16. Securities and Exchange Commission (N1–266–99–2, 19 items, 13 temporary items). Older files accumulated by various agency offices, 1933–1969. Included are such records as duplicate copies of orders, draft minutes, regional office investigative files relating to cases in which action was not taken by agency headquarters, subject files relating to administrative matters, court stenographers' tapes, registers listing documents submitted by companies applying for registration of securities, and questionnaires and other background materials for studies. Records proposed for permanent retention include studies and supporting documentation held by the Division of Records Management, 1934–1946, Central Files of the Commission for the period 1934–1964, records relating to Senate Banking and Currency Committee hearings held during the 1930s, and documents submitted by utility companies that date from ca. 1921–1962.

17. Tennessee Valley Authority, Agency-wide (N1–142–99–7, 9 items, 9 temporary items). Electronic database files, input/source documents, and hardcopy files and printouts created in the process of collecting, measuring, assessing, and reporting routine procurement data. Records pertain to such subjects as commodity purchases from specific companies, credit card transactions, contracts with small business, purchase orders and requests for quotes, and other related matters.

18. Tennessee Valley Authority, Agency-wide (N1–142–99–15, 2 items, 2 temporary items). Records used to validate and track all application and/or system hardware/software for TVA Year 2000 Compliance. Included are standard forms and inventory-related documents used to verify compliance or noncompliance for hardware, servers, and their peripherals. Also included are electronic copies of documents created using electronic mail and word processing.

Dated: November 19, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–30777 Filed 11–24–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These information collections were originally published on September 27, 1999. No comments were received.

DATES: Comments will be accepted until December 27, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collections of information:

OMB Number: 3133–0053.

Form Number: NCUA 4501.

Type of Review: Extension of a currently approved collection.

Title: Reports of Officials.

Description: 12 USC 1761—This statutory provision requires that a record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers shall be filed with the administration within 10 days of their election/appointment.

Respondents: All Federally Insured Credit Unions.

Estimated No. of Respondents/Recordkeepers: 11,000.

Estimated Burden Hours Per Response: .50.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 5,500.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0135.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: NCUA needs this information to comply with the Debt Collection Improvement Act which has a provision concerning the use of EFT payments.

Respondents: All Federally Insured Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 10,863.

Estimated Burden Hours Per Response: 2/60 hour.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 362.

Estimated Total Annual Cost: $7,821.

By the National Credit Union Administration Board on November 19, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30696 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: New collection of information.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 25, 2000.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: Not applicable.

Form Number: Not applicable.

Type of Review: New collection.

Title: Survey on Service to People of Modest Means.

Description: NCUA is considering policy changes which could result in substantial impact on credit unions. The results of the survey will be used to guide NCUA in the policy making process.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 6,700.

Estimated Burden Hours Per Response: .5 hours.

Frequency of Response: One-time.

Estimated Total Annual Burden Hours: 3,350.

Estimated Total Annual Cost: $55,844.50.

By the National Credit Union Administration Board on November 19, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30697 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Designation of Liaison Under the Y2K Act

AGENCY: National Credit Union Administration.

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) Board has appointed Roger Blake, Senior Information Systems Officer, Office of Examination and Insurance, to act as the NCUA Board's liaison for purposes of section 18(b) of the Y2K Act, Public Law 106–37. Mr. Blake will act as the liaison between the Board and certain credit unions with respect to problems arising out of Y2K failures and compliance with federal rules or regulations. Any federal credit union, or federally-insured credit union, that employs less than 50 full-time employees may seek Y2K-related assistance from Mr. Blake.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Blake, National Credit Union Administration (NCUA), Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia 22314–3428. Mr. Blake's phone number is (703) 518–6385.

SUPPLEMENTARY INFORMATION: The liaison appointed pursuant to the Y2K Act will assist regulated ''small business concerns'' with respect to problems arising out of Y2K failures and compliance with federal rules or regulations. The Y2K Act defines a small business concern as an unincorporated business, partnership, corporation, association, or organization with fewer than 50 full-time employees. In addition, the Y2K Act defines ''Y2K failure'' as failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, calculate, compare, sequence, display, store, transmit, or receive Year-2000 data. This definition specifically includes failures to (1) deal with or account for transitions of comparisons from, into, and between the years 1999 and 2000 accurately; (2) recognize or process accurately any specific date in 1999, 2000, or 2001; or (3) account accurately for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

As an alternative to contacting the NCUA's Y2K Act liaison in Alexandria, Virginia, affected credit unions may contact the following individuals in the regional offices with their questions:

Region I, Albany, New York: Anthony J. LaCreta, Acting Regional Director, at (518) 862–7400.

Region II, Alexandria, Virginia: Tawana Y. James, Regional Director, at (703) 519–4601.

Region III, Atlanta, Georgia: Alonzo A. Swann III, Regional Director, at (678) 443–3001.

Region IV, Chicago, Illinios: Nicholas Veghts, Regional Director, at (630) 955–4101.

Region V, Austin, Texas: J. Leonard Skiles, Regional Director, at (512) 342–5601.

Region VI, Concord, California: Jane Walters, Regional Director, at (925) 363–6200.

By the National Credit Union Administration Board on November 18, 1999.

Authority: Sec. 18(b), Pub. L. 106–37, 113 Stat. 185.

Becky Baker,

Secretary to the Board.

[FR Doc. 99–30698 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* December 3, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room : 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

2. *Date:* December 6, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room : 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 1999 deadline.

3. *Date:* December 7, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room : 415.
Program: This meeting will review applications for National Heritage Preservation Program, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

4. *Date:* December 8, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Philosophy, Religion, and Science, submitted to the Division of Research at the September 1, 1999 deadline.

5. *Date:* December 10, 1999.
Time: 9 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the November 1, 1999 deadline.

6. *Date:* December 10, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

7. *Date:* December 10, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in American History, submitted to the Division of Research at the September 1, 1999 deadline.

8. *Date:* December 10, 1999.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

9. *Date:* December 13, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 1999 deadline.

10. *Date:* December 13, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Archaeological Studies, submitted to the Division of Research at the September 1, 1999 deadline.

11. *Date:* December 14, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Non-Western Cultures, submitted to the Division of Research at the September 1, 1999 deadline.

12. *Date:* December 14, 1999.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for United States Newspaper Program, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

13. *Date:* December 15, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315..
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

14. *Date:* December 17, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315..
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

Laura S. Nelson,
Advisory Committee Management Officer.

[FR Doc. 99–30718 Filed 11–24–99; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences; 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 Astronomical Sciences (1186).
Date/Time: January 20–21, 2000; 9:00 a.m.–5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Vernon L. Pankonin, Program Director, Galactic Astronomy, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1826.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals submitted to the Galactic Astronomy Program in the area of Astronomical Sciences 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: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30756 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: Thursday, January 20, 2000, 8:30 a.m.–5:00 p.m.; Friday, January 21, 2000, 8:30 a.m.–Adjourn.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Carter Kimsey, Program Coordinator, Postdoctoral Research Fellowships in Biological Informatics, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1469.

Purpose of Meeting: To provide advise and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Postdoctoral Research Fellowships in Biological Informatics proposals submitted in response to the program announcement (NSF) 98–162.

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: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30753 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

U.S. National Assessment Synthesis Team; 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: U.S. National Assessment Synthesis Team (#5219).

Date: December 15–16, 1999, 8:30 a.m.–5:00 p.m. each day.

Place: The Westin St. Francis Hotel, 355 Powell Street, San Francisco, California.

Type of Meeting: Open.

Contact Person: Melissa J. Taylor, Office of the U.S. Global Change Research Program (USGCRP), 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. Tel: 202 314 2230; Fax: 202 488 8681; Email: mtaylor@usgcrp.gov. Interested persons should contact Ms. Taylor as soon as possible to assure space provisions are made for all participants and observers.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the interagency Subcommittee on Global Change Research on the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Agenda:

Day 1 (December 15) Members will review technical comments received and will discuss revisions to report.

Day 2 (December 16) Discussion of technical comments and revisions will continue.

Dated: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30754 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation and Communication; 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 Research, Evaluation and Communication (1210)

Date/Time: December 7–8, 1999, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Room 855, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Bernice Anderson, Program Director, Research, Evaluation and Communication (REC), National Science Foundation, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. (703) 306–1650.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to advance the field in appropriate use and analysis of student achievement data in systemic reform program accountability.

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: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30755 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

Regular Meeting of the Board of Directors

TIME & DATE: 2:00 P.M., Monday, December 6, 1999.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 220–2372.

AGENDA:

I. Call to Order
II. Treasurer's Report
III. Budget Committee Report: November 12, 1999 Meeting
IV. Executive Director's quarterly Management Report
V. Personnel Committee Report: November 3, 1999, Closed Meeting
VI. Adjourn.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 99–30950 Filed 11–23–99; 3:34 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; James A FitzPatrick Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to 10 CFR part 50 for Facility Operating License No. NPF–59, issued to the Power Authority of the State of New York (PASNY or the licensee), for operation of the James A. FitzPatrick

Nuclear Power Plant (FitzPatrick), located in Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action will revise the existing, or current, Technical Specifications (CTS) for FitzPatrick in their entirety based on the guidance provided in NUREG–1433, ''Standard Technical Specifications for General Electric Plants, BWR/4,'' Revision I, dated April 1995, and in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132). The proposed amendment is in accordance with the licensee's amendment request dated March 31, 1999, as supplemented by letters dated May 20, June 1, July 14, and October 14, 1999.

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would benefit from an improvement and standardization of plant Technical Specifications (TS). The ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants,'' (52 FR 3788) contained proposed criteria for defining the scope of TS. Later, the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36, ''Technical Specifications.'' The ''Final Rule'' (60 FR 36953) codified criteria for determining the content of TS. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For FitzPatrick, the Improved Standard Technical Specifications (ISTS) are in NUREG–1433, Revision 1. These documents formed part of the basis for the FitzPatrick Improved Technical Specifications (ITS) conversion. The NRC Committee to Review Generic Requirements (CRGR) reviewed the ISTS, made note of its safety merits, and indicated its support of the conversion by operating plants to the ISTS.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG–1433, Revision 1, and on guidance provided by the Commission in its Final Policy Statement. The objective of the changes is to completely rewrite, reformat, and streamline the CTS (*i.e.*, to convert the CTS to the ITS). Emphasis is placed on human factors principles to improve clarity and understanding of the TS. The Bases section of the ITS has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1433, Revision 1, portions of the CTS were also used as the basis for the development of the FitzPatrick ITS. Plant-specific issues (*e.g.*, unique design features, requirements, and operating practices) were discussed with the licensee, and generic matters were discussed with General Electric and other OGs.

The proposed changes from the CTS can be grouped into the following four categories: relocated requirements, administrative changes, less restrictive changes involving deletion of requirements, and more restrictive changes. These categories are as follows:

1. Relocated requirements (*i.e.*, the licensee's R or LA_n changes) are items which are in the CTS but do not meet the criteria set forth in the Final Policy Statement. The Final Policy Statement establishes a specific set of objective criteria for determining which regulatory requirements and operating restrictions should be included in the TS. Relocation of requirements to documents with an established control program, controlled by the regulations or the TS, allows the TS to be reserved only for those conditions or limitations upon reactor operation which are necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety, thereby focusing the scope of the TS. In general, the proposed relocation of items from the CTS to the Updated Safety Analysis Report (USAR), appropriate plant-specific programs, plant procedures, or ITS Bases follows the guidance of NUREG–1433 and NUREG–1434, Revision 1. Once these items have been relocated to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC-approved control mechanisms, which provide appropriate procedural means to control changes by the licensee.

2. Administrative changes (*i.e.*, the licensee's A_n changes) involve the reformatting and rewording of requirements, consistent with the style of the ISTS in NUREG–1433, Revision I, to make the TS more readily understandable to plant operators and other users. These changes are purely editorial in nature, or involve the movement or reformatting of requirements without affecting the technical content. Application of a standardized format and style will also help ensure consistency is achieved among specifications in the TS. During this reformatting and rewording process, no technical changes (either actual or interpretational) to the TS will be made unless they are identified and justified.

3. Less restrictive changes and the deletion of requirements involves portions of the CTS (*i.e.*, the licensee's L_n) which (1) provide information that is descriptive in nature regarding the equipment, systems, actions, or surveillances, (2) provide little or no safety benefit, and (3) place an unnecessary burden on the licensee. This information is proposed to be deleted from the CTS and, in some instances, moved to the proposed Bases, USAR, or procedures. The removal of descriptive information to the Bases of the TS, USAR, or procedures is permissible because these documents will be controlled through a process that utilizes 10 CFR 50.59 and other NRC-approved control mechanisms. The relaxations of requirements were the result of generic NRC actions or other analyses. They will be justified on a case-by-case basis for FitzPatrick and described in the safety evaluation to be issued with the license amendment.

4. More restrictive requirements (*i.e.*, the licensee's M_n changes) are proposed to be implemented in some areas to impose more stringent requirements than are in the CTS. In some cases, these more restrictive requirements are being imposed to be consistent with the ISTS. Such changes have been made after ensuring the previously evaluated safety analysis for FitzPatrick was not affected. Also, other more restrictive technical changes have been made to achieve consistency, correct discrepancies, and remove ambiguities from the TS. Examples of more restrictive requirements include: placing a Limiting Condition for Operation (LCO) on plant equipment which is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

There are other proposed changes to the CTS that may be included in the proposed amendment to convert the CTS to the ITS. These are beyond-scope changes in that they are changes to both the CTS and the ISTS. For the FitzPatrick, these are the following:

1. ITS 3.0.3, Limiting Condition for Operation (LCO) to be in MODE 2 was changed to allow a 9-hour completion time.

2. ITS 3.3.1.1, Reactor Protection System (RPS) Instrumentation Function 5, reactor scram on main steam isolation valve (MSIV) closure. The trip setting valve was changed from less than or equal to 10 percent (in the CTS) to less than or equal to 14 percent in the ITS.

3. ITS 3.3.1.1, Extending Required Action F.1 Completion Time from 6 hours to 8 hours for consistency with Current Licensing Basis (CLB) and changing 3.0.3 which allows 8 hours to be in MODE 2 after initiation of Action.

4. ITS 3.3.5.1, Automatic Depressurization System (ADS) initiation timer and the Containment Spray (CS) and Low-Pressure Coolant Injection (LPCI) pump start timer values were changed from the CTS and the STS and tolerances relaxed to allow the extension of CALIBRATION Frequency to 24 months in the ITS.

5. ITS 3.3.5.1, CS, LPCI and ADS Logic System Functional Test (LSFT) Frequency was extended from 18 months (in the CTS) to 24 months in the ITS.

6. ITS 3.4.9, Reactor Coolant System (RCS) Pressure/Temperature (P/T) Limits in CTS were changed to add a new alternate criteria in ITS to allow idle recirculating pump (loop) start if the operating loop is greater than 40 percent flow or if the idle loop is less than 40% flow for less than or equal to 30 minutes.

7. ITS 3.5.1, ECCS–Operating, High-Pressure Coolant Injection (HPCI) and LPCI pump flow rates in CTS were reduced to SAFER/GESTR-Loss-of-Coolant Accident (LOCA) flow rates in the ITS.

8. ITS 3.5.2, ECCS–Shutdown, reduced Residual Heat Removal (RHR) LPCI pump flow rates in CTS to SAFER/GESTR-LOCA flow rates as in ITS 3.5.1 for RHR LPCI pumps.

9. ITS 3.8.1, AC Sources—Operating, Condition D for two reserve circuits inoperable in CTS was changed to add new interim power reduction to less than or equal to 45 percent with a 36-hour Completion Time in the ITS.

10. ITS 3.8.4, DC Sources—''Operating (in CTS) was changed to allow 8 hours to restore one inoperable source in the ITS.

11. ITS 5.5, changed Standby Gas Treatment (SGT) and Control Room Emergency Ventilation Air Supply (CREVAS) system filter testing (in the CTS) from 6 months (or 12 months) to 24 months in the ITS for consistency with Regulatory Guide 1.52, Revision 2 or the fuel cycle length.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed conversion of the CTS to the ITS for FitzPatrick, including the beyond-scope issues discussed above. Changes which are administrative in nature have been found to have no effect on the technical content of the TS. The increased clarity and understanding these changes bring to the TS are expected to improve the operators control of FitzPatrick in normal and accident conditions.

Relocation of requirements from the CTS to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may then be made by the licensee under 10 CFR 50.59 and other NRC-approved control mechanisms which will ensure continued maintenance of adequate requirements. All such relocations have been found consistent with the guidelines of NUREG–1431 and the Commission's Final Policy Statement.

Changes involving more restrictive requirements have been found to enhance plant safety.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place an unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the owners groups, and found to be acceptable for the plant. Generic relaxations contained in NUREG–1433, Revision 1, have been reviewed by the NRC staff and found to be acceptable.

In summary, the proposed revisions to the TS were found to provide control of plant operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the 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 nonradiological impacts, the proposed action involves features located entirely within the restricted area for the plant defined in 10 CFR Part 20 and does not involve any historic sites. It does not affect nonradiological plant effluents and have no other environmental impact. They do not increase any discharge limit for the plant. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES for FitzPatrick.

Agencies and Persons Consulted

In accordance with its stated policy, on November 4, 1999, the staff consulted with the New York State official, Jack Spath, of the New York Energy and Research Authority, regarding the environmental impact of the proposed amendment. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed amendment will not have a significant effect on the quality of the human environment. Accordingly, the NRC 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 application dated March 31, 1999, as supplemented by letters dated May 20, June 1, July 14, and October 14, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 19th day of November 1999.

For the Nuclear Regulatory Commission.

Sheri R. Peterson,

Chief, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30735 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–648]

UMETCO Minerals Corp.; Final Finding of No Significant Impact; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Finding of No Significant Impact; Notice of Opportunity for Hearing.

SUMMARY: The Umetco Minerals Corporation (Umetco) requested that the U.S. Nuclear Regulatory Commission (NRC) amend its NRC Source Material License SUA–648 to authorize reclamation of the A–9 Repository (disposal cell), located in Natrona County, Wyoming, according to the 1998 Enhanced Reclamation Plan, as amended. The Umetco East Gas Hills site is located approximately 50 miles (80 kilometers) southeast of the town of Riverton, Wyoming. The A–9 cell is a former surface uranium mine that was lined with clay and used for mill tailings disposal. Cover construction was begun under a previously approved reclamation design and several changes have been proposed in the enhanced plan. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of Umetco's license amendment request, in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J9, Washington, DC 20555. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The Umetco Mineral Corporation (Umetco) site is licensed by the U.S. Nuclear Regulatory Commission (NRC) under Materials License SUA–648 to possess byproduct material in the form of uranium waste tailings as well as other radioactive wastes generated by past milling operations. The mill has been dismantled and current site activities include completion of reclamation of three disposal areas and continuation of the ground-water corrective action program.

The total volume of waste in the A–9 cell is approximately 3.5 million cubic yards (cyd) and up to 0.5 million cyd may be placed during final site decommissioning activities. An interim cover from 1 to 5 feet (30.5 to 152 cm) thick was placed over the entire A–9 area in 1988 and 1989. The final cover has not been constructed as additional waste and fill will be placed in the cell. Umetco submitted the enhanced reclamation plan by letter dated October 27, 1998. Additional information and revised pages to the plan were submitted December 10, 1998, and March 29, 1999. The plan provides designs to:

1. Reduce the planned frost protection soil layer to 4.5 feet (1.37 m) and increase the clay radon barrier to 1.5 feet (45 cm) for a total soil cover thickness of 7 feet (1.8 m) (previously 10 feet (3 m)) for the A–9 cell;
2. Change the vegetative cover to 6 to 12 inches (15 to 30 cm) of riprap (rock);
3. Grade the site for appropriate drainage, including east and west diversion ditches;
4. Reclaim the north and south evaporation ponds; and
5. Reclaim the C–18 pit.

The 35-acre A–9 disposal cell will need up to 23 feet (7 m) of fill in some areas to bring the surface to the proposed grade. The enhanced design increases the cell capacity and its footprint by approximately 16 acres. The change to a rock cover was proposed to improve the long-term erosion protection for the cover.

The site grading plan uses contours approved with the reclamation plans for the heap leach and above-grade impoundments, diverts an existing drainage channel to minimize potential erosion of the above-grade impoundment cover, raises the final elevation of the A–9 cell by approximately 10 feet (3 m) to accommodate additional material, grades the east side of the A–9 cell to a 3:1 or less slope, provides diversion ditches on the east and west side of the A–9 cell to direct runoff away from the cover, grades the area of the north and south evaporation ponds to 5:1 or less slope, and provides positive drainage for other areas on the site.

The north and south ponds (22 acres) were constructed in 1979 over mine overburden. In 1993, the ponds were dry and the upper portion of the clay liner was excavated and placed in the A–9 cell. The enhanced plan indicates that the remaining clay liner also will be excavated and placed in the A–9 cell. Umetco provided data indicating that residual byproduct material was not detectable in the rocky material under the pond liners (Design Report Part 1, Section 6) so a cover for this area is not required.

The C–18 former uranium surface mining pit is about 80 feet (24.4 m) deep and 500 feet (152.4 m) wide at the surface (covers 5.3 acres). The pit may have some byproduct material at the bottom from site drainage, therefore, Umetco has proposed to treat this pit as a repository with the required engineered cover.

The cover design of the A–9 cell and the other aspects of the enhanced design have been evaluated by the NRC staff. This technical review will be documented as part of the agency licensing action.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the enhanced reclamation plan for the Impoundment, in accordance with the National Environmental Policy Act, 10 CFR part 51, and Licensing and Regulatory Policy Procedures for Environmental Protection. The license amendment would authorize Umetco to complete reclamation as proposed. In conducting its appraisal, the NRC staff considered the following information: (1) Umetco's 1998 license amendment request and proposed design, as amended; (2) previous environmental evaluations of the facility; (3) data contained in required semiannual environmental monitoring reports; (4) existing license conditions; (5) results of NRC staff site visits and inspections of the Umetco facility; and (6) consultations with the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, the Wyoming Department of Environmental Quality, and the Wyoming State Historic Preservation Officer.

The results of the staff's appraisal are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the enhanced reclamation plan, and has determined that the requested amendment of Source Material License SUA–648, authorizing implementation of the reclamation plan, will: (1) be

consistent with requirements of 10 CFR part 40, appendix A; (2) not be inimical to public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents from facility operations have been and are expected to remain below the regulatory limits;

2. Present and potential health risks to the public and risks of environmental damage from the proposed reclamation were assessed. Given the remote location, limited activities requested, small area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

3. Because the staff has determined that there will be no significant impacts associated with approval of the license amendment, there can be no disproportionally high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of Environmental Justice concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Revision 1, is not warranted.

Alternatives to the Proposed Action

The proposed action is to amend NRC Source Material License SUA–648, for reclamation of the A–9 and C–18 cells and site grading, as requested by Umetco. Therefore, the principal alternatives available to the NRC are to:

1. Approve the license amendment request as submitted; or

2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the amendment request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of Umetco's future operations or the denial of the license amendment. Additionally, the staff has reviewed the licensee's proposed action with respect to the criteria for reclamation and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed amendment of NRC Source Material License SUA–648. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW, Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Umetco Minerals Corporation, PO Box 1029, Grand Junction, CO 81502;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 17th day of November 1999.

For the Nuclear Regulatory Commission.

John J. Surmeier,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–30734 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Workshop Concerning the Revision of the Baseline Safety Inspection Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public workshop.

SUMMARY: NRC will host a public workshop at the Doubletree Hotel in Rockville, Maryland for those regulated by the NRC and other stakeholders to provide and explain their views concerning NRC plans to revise its safety inspection program for nuclear fuel cycle facilities. This workshop follows the recent public stakeholder meetings held at NRC Headquarters on September 16 and October 20, 1999. Presentations given at each meeting together with a transcript of the meeting will be placed on the NRC INTERNET web page (http://www.nrc.gov). Similar to the revisions of the inspection and oversight program for commercial nuclear power plants, NRC initiated an effort to improve its inspection program for nuclear fuel cycle facilities. This is described in SECY–99–188 titled, EVALUATION AND PROPOSED REVISION OF THE NUCLEAR FUEL CYCLE FACILITY SAFETY

INSPECTION PROGRAM. SECY–99–188 is available in the Public Document Room and on the NRC Web Page at http://www.nrc.gov/NRC/COMMISSION/SECYS/index.html.

Purpose: To provide those regulated by the NRC and other stakeholders an opportunity to explain their views concerning the NRC's planned revision of the fuel cycle safety inspection program. The safety inspection program applies to nuclear fuel cycle facilities regulated under 10 CFR parts 40, 70 and 76. The facilities currently include gaseous diffusion plants, highly enriched uranium fuel fabrication facilities, low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production facility. These facilities possess large quantities of materials that are potentially hazardous (*i.e.,* radioactive, toxic, and/or flammable) to the workers, public, and/or environment. In revising the inspection program, the goals are to have an inspection program that: (1) Provides earlier and more objective indications of acceptable and changing safety performance, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness and efficiency. In this regard, the NRC desires the revised inspection program to be more risk-informed and performance-based and more focused on significant risks. Where practicable, the program will use more objective safety performance indicators (PIs) with accompanying performance thresholds.

The safety rationale for NRC inspection commensurate with risk (hazards and controls) will be discussed in the context of establishing indicators of licensee performance. The focus of the workshop will be consideration of performance indicators (i.e., precursors) that will reliably indicate when there is a need for corrective action to preclude exceeding regulatory limits which were established to preclude adverse impacts on the public or worker health and safety or the environment.

DATES: The workshop is scheduled for Wednesday, December 15, 1999, from 8:30 a.m. to 5 p.m. and is open to the public.

ADDRESSES: Doubletree Hotel, Regency Conference Room, 1750 Rockville Pike, Rockville, Maryland 20852. Parking is limited around the hotel; however, the hotel is located adjacent to the Twinbrook Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Walter Schwink, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7253, e-mail wss@nrc.gov.

Dated at Rockville, Maryland this 22nd day of November, 1999.

For the Nuclear Regulatory Commission.

Philip Ting,

Chief, Operations Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 99–30733 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. MC2000–2; Order No. 1272]

Mailing Online Experimental Classification Proceeding

AGENCY: Postal Rate Commission.

ACTION: Notice of new experimental filing.

SUMMARY: This document establishes a docket to consider a proposed experimental classification and fee schedule for a new Mailing Online service. It also addresses related administrative matters, including dates for conferences and deadlines for certain filings. Publication of this document provides interested persons with information on important preliminary steps in the Commission's consideration of the case.

DATES: Key dates include:

1. December 2, 1999 (1:30 p.m): technical conference in PRC hearing room.
2. December 8, 1999 (2 p.m.): deadline for filing notices of intervention, statements opposing consideration of the request under experimental rules, and answers to Postal Service motion for expedition and waiver of certain provisions of rules 161 and 64(h).
3. December 13, 1999 (2 p.m.): prehearing conference in PRC hearing room.
4. December 16, 1999: deadline for filing issue statements and answers to Postal Service motion for designation of testimony and cross-examination from previous docket [No. MC98–1].

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

ADDRESSES: Send correspondence regarding this docket to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Commission provided notice of a predecessor case (Docket No. MC98–1) in Order No. 1216 (63 FR 39600, July 23, 1998). The preamble discusses that case and its subsequent withdrawal pursuant to action of the Postal Service's Governors.

Background

Notice is hereby given that on November 16, 1999, the United States Postal Service (Postal Service or USPS) filed a request with the Postal Rate Commission (Commission or PRC) pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, for a recommended decision on adding a proposed Mailing Online service to the Domestic Mail Classification Schedule (DMCS) on an experimental basis. The request also incorporates a proposal for the establishment of associated new fees. The request includes attachments and is supported by the testimony of five witnesses. The Postal Service has separately filed two library references in support of this request. The request, attachments, and library references are on file in the Commission docket room and are available for inspection during the Commission's regular business hours. For interested persons who have access to the internet, the request and related documents are available on the Commission's home page at http://www.prc.gov.

Description of Request

The proposed Mailing Online service would enable individuals and organizations with access to a personal computer and an internet connection to transmit documents created on their computers to the Postal Service in digital form for printing and entry as mail, paying online in a single transaction. Users would transmit digital document files generated in any of several selected word processing and desktop publishing applications, together with recipient information and other data, to a designated Postal Service site on the world wide web. The Postal Service would offer users a number of choices regarding printing and finishing specifications, customization of output by recipient variables in the user's database, and scheduling of a specific mailing date.

Users of the proposed Mailing Online service would be charged existing postage rates for mailing, plus a fee for production and other pre-mailing services. Depending upon the character of the material being sent and the user's service preference, mail pieces

generated by the Mailing Online service would be charged postage at either: Express Mail next day service and second day service rates; First-Class Mail letters and sealed parcels automation letters basic rates; First-Class Mail letters and sealed parcels automation flats basic rates; First-Class Mail cards automation basic rates; First-Class Mail single-piece Priority mail rates; Standard mail regular automation basic letters rates; Standard mail regular automation basic flats rates; Standard mail nonprofit automation basic barcoded rates (starting on a date to be specified by the Postal Service); Standard mail nonprofit automation basic barcoded flats rates (starting on a date to be specified by the Postal Service); or single-piece rates for either First-Class Mail letters and sealed parcels or First-Class Mail cards for non-conforming addresses. Postal Service Request, Attachment A, at 4.

Fees

In lieu of specific unit fees for the Mailing Online special service, the Postal Service proposes what might be described as a ''cost plus'' approach to fee calculation. For the duration of the experiment, the Postal Service proposes that fees be 130 percent times what the Postal Service is charged by printers to prepare the mail piece, plus 0.1 cent per impression to recover other Postal Service costs. Postal Service Request, Attachment B.

Relationship to Mailing Online Service, PRC Docket No. MC98–1

The requested Mailing Online Experiment is substantially similar to the Mailing Online Service presented in PRC Docket No. MC98–1 (63 FR 39600, July 23, 1998). In MC98–1, the Commission recommended and the Postal Service implemented a market test of Mailing Online. The market test ran from October 30, 1998 through October 29, 1999. The Postal Service request for a market test included a request for a Mailing Online Service experiment. The Postal Service Board of Governors directed the withdrawal of the request for experiment on May 3, 1999, because of events that rendered inaccurate the cost foundation underlying the request for the initial Mailing Online Service experiment.

Differences Between the Two Cases

The instant Mailing Online Experiment differs from its predecessor in duration, internet implementation, options offered, and cost structure. The following are highlights of the proposed differences. The duration of the experiment is for three years as opposed to the two years proposed in MC98–1. The service will be accessed through the USPS.com web site rather than through PostOffice Online. Many of the service options planned for implementation during the original experiment will now be offered at the outset of the Mailing Online experiment. The service may be used with more mail subclasses and rate categories. The proposed mark-up has increased from 125 percent to 130 percent.

Expedited Consideration of the Request

The Postal Service request invokes the operation of sections 67 through 67d of the Commission's rules of practice and procedure which provide for expedited consideration of requests for new services or mail classification changes that are experimental in character. See 39 CFR 67–67d. These rules provide for the adoption of streamlined procedures for considering such requests, and require participants to identify the genuine issues of material fact raised by the Postal Service proposal in order to limit formal hearings to those issues. 39 CFR 3001.67a. They also provide for establishment of a procedural schedule that will allow issuance of a recommended decision within 150 days from any favorable determination the Commission may make as to the propriety of treating the Postal Service proposal as experimental. 39 CFR 3001.67d.

The proposed service qualifies for consideration as an experiment, the Postal Service submits, in view of its novelty as an electronic means of presenting documents for entry into the mail; the modest anticipated magnitude of its impact upon postal costs and revenues, and the mailing costs and practices of mail users; and the need to gather information suitable for supporting a request for a permanent mail classification change. Postal Service Request at 4–5.

Motion for Expedition and Waiver of Certain Provisions

The Postal Service request is accompanied by a pleading captioned ''Motion of the United States Postal Service for Expedition and for Waiver of Certain Provisions of Rule 161 and Certain Provisions of Rule 64(h).'' (Motion for Expedition.) In this pleading, the Service asks the Commission to expedite consideration of its request as provided for in the experimental service rules and to issue a decision that would allow the Postal Service's preferred objective of implementing the Mailing Online experiment as soon as mid-April 2000. Pursuant to rule 64(h)(3), the Postal Service also asks to be relieved of the obligation to produce certain information regarding cost and revenue effects of its proposal, on the grounds that its proposal would not change any existing rates or fees, or produce a significant impact upon the cost-revenue relationships of existing postal services. Motion for Expedition at 3–5. Specifically, the Service seeks waiver of rules 54(b)(3) in part, 54(f)(2), 54(f)(3), 54(h), 54(j), and 54(l) in part. Motion for Expedition at 5–6.

Motion for Designation of Testimony and Cross-Examination From Previous Docket as Evidence

The Postal Service request also is accompanied by a pleading captioned ''Motion for Designation of Testimony and Cross-Examination From Previous Docket as Evidence in Commission Docket No. MC2000–2.'' In this pleading the Service asks the Commission to admit as record evidence in this docket, the direct testimony and cross examination of witness Rothschild from PRC Docket No. MC98–1. The referenced direct testimony is the direct testimony of Beth B. Rothschild on behalf of United States Postal Service, PRC Docket No. MC98–1, USPS–T–4. The referenced cross-examination testimony is in the official transcript of proceeding, PRC Docket No. MC98–1, Vol. 2, at 428–79.

Notice of Technical Conference

The Postal Service request is accompanied by a notice captioned ''Notice of Technical Conference.'' In this notice, the Postal Service announces that a technical conference in this proceeding will be held on December 2, 1999 at 1:30 p.m. The conference will be held in the Postal Rate Commission hearing room located at 1333 H Street NW., Suite 300, Washington, DC 20268–0001. The Postal Service plans to have all witnesses and their counsel present. Persons considering intervention are encouraged to attend the technical conference to determine if real issues of fact or policy exist.

Further Procedures; Filing Address

Rules 20 and 20a provide that interested persons may intervene in proceedings to consider Postal Service requests by filing a notice of intervention no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary. Accordingly, anyone wishing to be heard in this matter is directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the

Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001, on or before December 8, 1999. Intended participants should indicate whether they request formal intervention or limited participator status. See 39 CFR 3001.20 and 3001.20a.

With regard to the Postal Service request to establish Mailing Online service as an experimental mail classification, rule 67(c) provides that the Commission will entertain representations by participants that the proposal should not be considered as an experiment, and should follow the normal mail classification change procedures. Any participant intending to make such a representation shall do so by pleading no later than December 8, 1999.

In addition, rule 67a(b) requires parties to proceedings in which the Postal Service seeks a classification change it denominates as experimental in character to file statements of the issues they perceive in the case at the earliest possible time following the filing of the Postal Service request, or following a determination that the proposed change is experimental in character. In view of the Postal Service motion for expeditious consideration of its proposal, participants' statements of issues shall also be due no later than December 16, 1999.

A prehearing conference will be held in this proceeding on Monday, December 13, 1999, at 2 p.m. in the Commission's hearing room. Participants should be prepared to discuss what formal procedures, including hearings, may be necessary and appropriate in this docket. In addressing the issue of appropriate procedures in this docket, participants should also be prepared to address the potentially different procedural requirements presented by the Postal Service's proposal and its request for establishment of Mailing Online as an experimental service. If the Commission determines that formal hearings to resolve genuine issues of material fact are required, the presiding officer will establish subsequent procedural dates.

Representation of the General Public

In conformance with 39 U.S.C. 3624(a), the Commission designates Ted P. Gerarden, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, when requested, will supply their names for the record. Neither Mr. Gerarden nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by rule 10(c). 39 CFR 3001.10(c).

Ordering Paragraphs

Paragraph no. 1 states that the Commission will sit en banc in this proceeding. Paragraph no. 2 directs that notices of intervention shall be filed no later than December 8, 1999. Paragraph no. 3 directs that statements of issues presented by the Postal Service's request in this docket to establish a Mailing Online experimental mail classification in conformance with 39 CFR 3001.67a(b) shall be filed no later than December 16, 1999. Paragraph no. 4 directs that statements by parties asserting that the proposal should not be considered as an experiment and should follow the normal mail classification change procedures in conformance with 39 CFR 3001.67(c) shall be filed no later than December 8, 1999. Paragraph no. 5 directs that answers to the Postal Service's motion for expedition and for waiver of certain provisions of rule 161 and certain provisions of rule 64(h) are to be submitted no later than December 8, 1999. Paragraph no. 6 directs that answers to the Postal Service's motion for designation of testimony and cross-examination from a previous docket (MC98–1) as evidence in Commission docket no. MC2000–2 are to be submitted no later than December 16, 1999. Paragraph no. 7 directs the Postal Service shall provide, within 10 days, responses to any written discovery requests submitted to it before December 13, 1999. Paragraph no. 8 designates Ted P. Gerarden, director of the Commission's OCA, to represent the general public. Paragraph no. 9 schedules a prehearing conference in this docket on December 13, 1999, at 2:00 p.m. in the Commission's hearing room. Paragraph no. 10 directs the Secretary to cause this notice and order to be published in the **Federal Register**.

Authority: 39 U.S.C. 3623.

Dated: November 19, 1999.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 99–30766 Filed 11–24–99; 8:45 am]

BILLING CODE 7715–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings.

(2) *Form(s) submitted:* RL–231–F.

(3) *OMB Number:* 3220–0107.

(4) *Expiration date of current OMB clearance:* 3/31/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 150.

(10) *Collection description:* Under the Railroad Retirement Act (RRA) benefits are not payable if an annuitant works for an employer covered under the RRA or last non-railroad employer. The collection obtains information regarding an annuitant's work and earnings from a non-railroad employer. The information will be used for determining whether benefits should be withheld.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–30794 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24146]

Notice of Applications for Deregulation under Section 8(f) of the Investment Company Act of 1940

November 19, 1999.

The following is a notice of applications for deregulation under section 8(f) of the Investment Company Act of 1940 for the month of November 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 14, 199, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

The Berwyn Fund, Inc. [File No. 811–9309]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 3, 1999, applicant transferred its assets to The Berwyn Funds (the ''Acquiring Fund'') based on net asset value. Expenses of $75,000 incurred in connection with the reorganization were paid by the Acquiring Fund.

Filing Dates: The application was filed on August 27, 1999, and amended on September 10, 1999, and November 12, 1999.

Applicant's Address: 1189 Lancaster Avenue, Berwyn, Pennsylvania 19312.

Chicorp Equity Trust [File No. 811–6299]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. By August 31, 1999, each series of applicant had made a final liquidating distribution to its shareholders at net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on November 3, 1999.

Applicant's Address: 208 South LaSalle Street, Chicago, Illinois 60604.

CVO Greater China Fund, Inc. [File No. 811–8760]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 14, 1999, applicant made its final liquidating distribution to its shareholders based on net asset value. Expenses of $7,400 incurred in connection with the liquidation were paid by CVO Greater China Partners, LP, applicant's investment adviser.

Filing Date: The application was filed on October 28, 1999.

Applicant's Address: 400 Bellevue Parkway, Wilmington, Delaware 19809.

MBL Variable Contract Account–12 [File No. 811–5849]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 15, 1999, applicant made liquidating distributions to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on October 18, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30773 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24147; 812–11860]

The First Australia Prime Income Fund, Inc., et al.; Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

Summary of Application: The First Australia Prime Income Fund, Inc. (''FAX'') requests an order to permit it to make periodic distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect distribution policies: (i) With respect to its common stock calling for monthly distributions of a fixed percentage of the net asset value of the common stock; and (ii) with respect to its preferred stock calling for periodic dividends of a specified percentage of the liquidation preference of the preferred stock. In addition, The First Commonwealth Fund, Inc. (''FCO'') seeks to amend an existing order to extend the relief granted with respect to its common stock to its preferred stock.[1]

Applicants: FAX and FCO.

Filing Date: The application was filed on November 18, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. FAX, Gateway Center 3, 100 Mulberry Street, Newark, New Jersey 07102. FCO, 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Paula L. Kashtan, Senior Counsel, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. FAX is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management

[1] The First Commonwealth Fund, Inc., Investment Company Act Release Nos. 23936 (Aug. 9, 1999) (notice) and 23993 (Sept. 3, 1999) (order).

investment company. FAX's investment objective is to provide current income through investment primarily in Australian debt securities. Up to 35% of its total assets may be invested in certain Asian debt securities. FAX's common shares are listed on the American Stock Exchange and have traded at various times at either a premium or a discount to net asset value. FAX's Auction Market Preferred Shares are traded in weekly or monthly auctions, depending on the series, conducted by The Chase Manhattan Bank (''Chase''), FAX's auction agent. EquitiLink International management Limited (''EquitiLink''), FAX's investment manager, is registered as an investment adviser under the Investment Advisers Act of 1940.

2. FCO is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management investment company. FCO's primary investment objective is to provide high current income, primarily through investments in fixed-income securities denominated in the currency of Australia, Canada, New Zealand, and the United Kingdom. Up to 35% of its total assets may be invested in certain global debt securities. FCO's Auction Market Preferred Shares are traded in weekly auctions conducted by Chase. EquitiLink is FCO's investment manager.

3. On June 10, 1999, FAX's board of directors (''FAX Board''), including a majority of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act, adopted a distribution plan with respect to its common stock (''Monthly Distribution Plan'') that calls for regular monthly distributions at a monthly cash distribution rate (''Monthly Cash Distribution Rate'') set in March of each year by the Board. Among other things, the FAX Board considered empirical evidence that, in some cases, market discounts to net asset value have narrowed upon adoption of similar distribution policies by other closed-end funds. The FAX Board has set the annualized Monthly Cash Distribution Rate for the period March 1999, through February 2000, at 6 cents per share per month, subject to market conditions. If, for any taxable year, the total distributions required by its Monthly Distribution plan exceed FAX's annual net investment income and net realized capital gains, the excess will generally be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares).

4. FAX requests relief to permit it, so long as it maintains in effect the Monthly Distribution Plan, to make up to twelve distributions of long-term capital gains in any one taxable year. FAX and FCO also request relief to permit them, so long as their outstanding Auction Market Preferred Shares and any other preferred stock to be issued by FAX or FCO in the future (collectively ''AMPS'') required periodic dividend payment (''specified periodic payments'') in amounts equal to a specified percentage of the liquidation preference of their respective AMPS, such percentage to be determined at periodic auctions, to make up to fifty-two periodic distributions of long-term capital gains in any one taxable year. If, for any taxable year, the total dividends required by either applicant's specified periodic payments exceeds either applicant's net investment income and net capital gains, the excess will be treated as a return of capital.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(c) of the Internal Revenue Code of 1986, as amended (the ''Code''). Rule 19b-1(a) also permits a supplemental distribution to be made pursuant to Section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under Section 4982 of the Code. In addition, applicants state that Revenue Ruling 89–81 takes the position that if a regulated investment company has two classes of shares, it may not designate distributions made to either class in any years as consisting of more than such class's proportionate share of particular types of income, such as capital gains.

2. The applicants assert that rule 19b-1, by limiting the number of net long-term capital gains distributions and dividends that the applicants may make with respect to any one year, would prohibit the applicants from including available net long-term capital gains in certain of their fixed monthly distributions and periodic dividends. As a result, the applicants state that they could be required to fund these monthly distributions and periodic dividends with returns of capital (to the extent that net investment income and net realized short-term capital gains are insufficient to cover the distributions and dividends). FAX asserts that, with respect to its common shares, in order to distribute all the long-term capital gains within the limits in rule 19b-1, it may be required to make total distributions in excess of the annual amount called for by the Monthly Distribution Plan or retain and pay taxes on the excess amount. The applicants also note that the application of rule 19b-1 to pay-out policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. the applicants submit that the concerns underlying section 19(b) and rule 19b-1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. With respect to its common stock, FAX represents that the Monthly Distribution Plan has been described in its periodic communications to its shareholders. In accordance with rule 19a-1 under the Act, a separate statement showing the sources of the distribution will accompany each distribution (or the confirmation of the reinvestment thereof under FAX's dividend reinvestment plan). With respect to the AMPS, the applicants state that there is little chance for investor confusion since all an investor expects to receive is the specified distribution for any specified dividend period, and no more, and that there is little or no chance for shareholder confusion regarding the yield or investment return generated by the dividends. In accordance with rule 19a-1, a separate statement showing the sources of the distribution will accompany each AMPS periodic dividend, with a statement provided near the end of the last dividend period in a fiscal year indicating the sources of each distribution make during the fiscal year (i.e., net income, net capital gains and/or return of capital). In addition, for both the common stock and the AMPS, a statement showing the amount and sources of distributions received during the year will be included on each applicant's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year). This information on an aggregate basis will also be included in each applicant's annual report to shareholders.

4. another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could

improperly influence distribution practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend (''selling the dividend''), when the dividend results in an immediate corresponding reduction in net asset value and is, in effect, a return of the investor's capital. FAX submits that this concern does not arise with regard to closed-end management investment companies, such as the applicant, that do not continuously distribute shares of their common stock. The applicants also believe that this concern does not apply to the preferred stock, which entitles a holder to a specified periodic dividend and no more, and, like a debt security, is initially sold at a price based on its liquidation preference plus an amount equal to an accumulated dividends. Finally, the applicants note that the condition to the requested relief should further assure that the concern about selling the dividend will not arise in connection with a rights offering by either of the applicants.

5. Applicants state that if any rights offerings by either of them will be timed so that shares issuable upon exercise of the rights will be issued only in the 15-day period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend could not occur as a matter of timing. The applicants further state that any rights offering will comply with all relevant Commission and staff guidelines. In determining compliance with these guidelines, each applicant's board of directors will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any such offering by either applicant of transferable rights will also comply with any applicable NASD rules regarding the fairness of compensation.

6. The applicants state that increased administrative costs also are a concern underlying section 19(b) and rule 19b-1. The applicants assert that this concern is not present because the applicants will continue to make regular periodic distributions regardless of whether long-term capital gains are included in any particular distribution.

7. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the applicants believe that the requested relief satisfies this standard.

Condition

Each of FAX and FCO agrees that the order granting the requested relief with respect to its common stock will terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by such applicant of its common shares other than:

(i) a rights offering with respect to holders of such applicant's common stock, in which (a) shares are issued only within the 15-day period immediately following the record date of a monthly dividend, (b) the prospectus for such rights offering makes it clear that common shareholders exercising rights will not be entitled to receive such dividend, and (c) the applicant has not engaged in more than one rights offering during any given calendar year; or

(ii) an offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of such applicant, unless the applicant has received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30772 Filed 11–24–99 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24145; 812–11466]

SunAmerica Asset Management Corp., *et al,;* Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

Summary of Application: Applicants request an order to permit certain open-end management investment companies to settle claims that may arise under a directors' and officers'/errors and omission insurance policy provided by an affiliated insurance company.

Applicants: SunAmerica Asset Management Corp. (''Adviser''); Anchor Pathway Fund, Anchor Series Trust, Season Series trust, Style Select Series, Inc., SunAmerica Equity Funds, SunAmerica Income Funds, SunAmerica Money Market Funds, Inc., SunAmerica Series Trust, and SunAmerica Strategic Investment Series, Inc. (each a ''Fund,'' and collectively, the ''Funds'').

Filing Date: The application was filed on January 13, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the applicant will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 14, 1999, and should be accompanied by proof and service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 733 Third Avenue, New York, New York 10017–3204.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102, (202) 942–8090.

Applicant's Representations

1. Each fund is registered under the Act as an open-end management investment company. The Adviser is registered as an investment adviser under the Investment Adviser Act of 1940 (''Advisers Act'') and advises each of the Funds other than Anchor Pathway Fund. Anchor Pathway Fund is advised by Capital Research and Management Company, an investment adviser registered under the Advisers Act. All of the outstanding shares of Anchor Pathway Fund are held by a separate account of Anchor National Life Insurance Company, an indirect wholly owned subsidiary of SunAmerica Inc. (''SunAmerica''). The

Adviser is also an indirect wholly owned subsidiary of SunAmerica.

2. The Funds the Adviser, and certain other SunAmerica entities are joint insured under a directors' and officer's/errors and omissions insurance policy provided by National Union fire Insurance Company (''National Union''). The Funds first obtained this type of insurance from National Union in 1995. The currently policy (''Existing Policy'') was issued in 1996 and expires on September 1, 2000. Applicants state that after the expiration of the Existing Policy, applicants will not obtain insurance coverage from National Union.

3. National Union is an indirect, wholly owned subsidiary of American International Group, Inc. (''AIG''). On January 1, 1999, AIG acquired SunAmerica. As a result of the merger, the Adviser has become an indirect wholly owned subsidiary of AIG, and applicants state that National Union has become an affiliated person of the Adviser and an affiliated person of an affiliated person (''second-tier affiliate'') of the Funds. In light of these new affiliations, applicants request relief so that a Fund may settle insurance claims with National Union under the Existing Policy.

Applicant's Legal Analysis

1. Section 17(a) generally prohibits sales or purchases of securities or property between a registered investment company and any affiliated person or second-tier affiliate of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly controlling, controlled by, or under common control with the other person, and (b) if the other person is an investment company, any investment adviser of that company.

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants request an order under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to permit a Fund and National Union to settle claims arising under the Existing Policy. Applicants state that section 17(a) prohibits the settlement of claims under an insurance policy where the insurer is an affiliated person or second-tier affiliate of the insured investment company because the settlement of a claim under an insurance policy entails the release of a property right (*i.e.,* of a right to sue under the policy with respect to the claim). Applicants state that the Adviser is an affiliated person of the Funds by virtue of being investment adviser to the Funds. Because National Union is under common control with the Adviser, applicants state that National Union may be deemed a second-tier affiliate of the Funds.

4. Applicants submit that the interests of the Funds would be best served by permitting extra-judicial settlement of claims because Funds will be able to resolve claims promptly without incurring additional costs of litigation. Applicants note that any settlement would be subject to the approval of a majority of a Fund's board of directors (''Board''), including a majority of the directors who are not ''interested persons'' of the Fund, the Adviser, or AIG within the meaning of section 2(a)(19) of the Act (Independent Board Members''). In addition, applicants state that in negotiating the amount of any extra-judicial settlement under the Existing Policy on behalf of a Fund, the Adviser has an interest in maximizing the Fund's recovery because its advisory fees are based on Fund assets. Applicants state that even though the Adviser and National Union are both subsidiaries of AIG, each is a separately operated entity with different directors and officers, and each entity is in a separate profit center within the AIG corporate structure.

Condition

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The officers of each Fund will report all losses potentially covered under the Existing Policy to the Fund's Board. The Board, including the Independent Board Members, will evaluate the loss, and a majority of the Board, including a majority of the Independent Board Members, will determine whether to submit a claim to National Union and the amount of any claim. If National Union makes a settlement offer for less than the amount submitted, the adequacy of the settlement offer will be evaluated by the Board, including the Independent Board Members. The settlement may be accepted if a majority of the Board, including a majority of the Independent Board Members (upon the advice of independent counsel), determines that the settlement offer meets the standards specified in section 17(b) of the Act and is in the best interest of the Fund and its shareholders.

2. Each Board will record and preserve a description of all transactions with National Union, its findings, the information or materials upon which its findings are based and the basis for the findings. All such records will be maintained for a period of not less than six years, the first two years in an easily accessible place, and will be available for inspection by the staff of the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30708 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24144; 812–11854]

OLDE Asset Management, Inc.; Notice of Application

November 18, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for and exemption from section 15(a) of the Act.

Summary of Application: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements (''New Agreements'') for a period of not more than 150 days beginning on the later of the date on which the acquisition by H&R Block, Inc. ''H&R Block'') of OLDE Asset Management, Inc. (''OLDE Management'') is consummated or the date on which the requested order is issued and continuing through the date the New Agreements are approved or disapproved by the shareholders (but in no event later than April 15, 2000) (''Interim Period''). The order would also permit payment of all fees earned under the New Agreements during the

Interim Period following shareholder approval.

Filing Date: The application was filed on November 12, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 10, 1999, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicant, 751 Griswold Street, Detroit, Michigan 48226.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. No. 202–942–8090).

Applicant's Representations

1. OLDE Management is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is a wholly-owned subsidiary of OLDE Financial Corporation (''OLDE Financial''), a holding company. OLDE Management serves as investment adviser to OLDE Custodian Fund (''Trust''). The Trust is an open-end management investment company registered under the Act and consists of three series (each a ''Fund,'' and collectively, the ''Funds''). OLDE Management manages the assets of the Funds pursuant to investment advisory contracts between OLDE Management and the Trust (''Existing Agreements'').

2. On August 31, 1999, H&R Block and OLDE Financial entered a stock purchase agreement pursuant to which H&R Block will acquire OLDE Financial (the ''Transaction''). The Transaction is expected to be consummated on or about November 30, 1999 (the ''Closing Date''). OLDE Management states that the Transaction will result in an assignment, and thus automatic termination, of the Existing Agreements.

3. OLDE Management requests an exemption to permit (i) the implementation during the Interim Period, prior to obtaining shareholding approval, of the New Agreements between the Trust and OLDE Management, and (ii) OLDE Management to receive from each Fund, upon approval of the respective Fund's shareholders, any and all fees payable under the New Agreements during the Interim Period. The requested exemption would cover the Interim Period of not more than 150 days beginning on the later of the Closing Date or the date the requested order is issued [1] and continuing through the date the New Agreements are approved or disapproved by the shareholders of the Funds (but in no event later than April 15, 2000). The New Agreements will contain terms and conditions identical to those of the Existing Agreements, except for the effective and termination dates.

4. On October 13, 1999, the Trust's Board of Trustees (''Board'') met to consider and evaluate the New Agreements and to determine whether the terms of the New Agreements are in the best interests of the Funds and their shareholders. The Board, including a majority of the directors who are not ''interested person'' within the meaning of section 2(a)(19) of the Act (''Independent Trustees''), voted to approve the New Agreements and to recommend that each Fund's shareholders approve the respective New Agreement. Proxy materials for the shareholder meetings are expected to be mailed on or about December 6, 1999, and the shareholder meeting is scheduled to be held on or about January 18, 2000.

5. OLDE Management proposes to enter into an escrow arrangement with an unaffiliated financial institution (''Escrow Agent''). The fees earned by OLDE Management during the Interim Period under the New Agreements would be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including any interest earned will be paid (i) to OLDE Management only if shareholders of the respective Fund approve the New Agreement, or (ii) to the respective Fund if the Interim Period has ended and shareholders have not approved the applicable New Agreement. The Escrow Agent will release the moneys as provided only upon a receipt of a certificate from the officers of the applicable Fund that action is appropriate based on shareholder votes. Before any such certificate is sent, the Independent Trustees will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. OLDE Management states that the Transaction will result in an assignment of the Existing Agreements and their automatic termination.

2. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated, the adviser may continue to serve for up to 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (i) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. OLDE Management states that it may not rely on rule 15a–4 because of the benefits arising to OLDE Financial in connection with the Transaction.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the

[1] OLDE Management states that if the Closing Date precedes the issuance of the requested order, it will continue to serve as investment adviser after the Closing Date (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to continue to provide investment advisory services to the Funds even though shareholder approval of the New Agreements from the respective Fund has not yet been secured. OLDE Management also states that it will be entitled to receive from the Funds, with respect to the period from the Closing Date until the issuance of the order, no more than the actual out-of-pocket costs to OLDE Management for providing investment advisory services to the Funds.

exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. OLDE Management states that the requested relief satisfies this standard.

4. OLDE Management asserts that the Transaction arose out of business considerations unrelated to the Trust and OLDE Management. OLDE Management states that there is insufficient time to obtain shareholder approval of the New Agreements prior to the Closing Date.

5. OLDE Management represents that under the New Agreements, during the Interim Period, the scope and quality of services provided to the Funds will be at least equivalent to the scope and quality of the services it previously provided under the Existing Agreements. OLDE Management states that if any material change in its personnel occurs during the Interim Period, OLDE Management will apprise and consult with the Board to ensure that the Board, including a majority of the Independent Trustees, are satisfied that the scope and quality of the advisory services provided to the Funds will not be diminished. OLDE Management also states that the compensation payable to it under the New Agreements will be no greater than the compensation that would have been paid to OLDE Management under the Existing Agreements.

Applicant's Conditions

OLDE Management agrees as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreements will have the same terms and conditions as the Existing Agreements except for the dates of execution and termination.

2. Fees earned by OLDE Management in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such fees) will be paid to (i) OLDE Management in accordance with the New Agreements, after the requisite shareholder approvals are obtained, or (ii) the respective Fund, in absence of such shareholder approval.

3. The Trust will convene a meeting of shareholders of each Fund to vote on approval of the respective New Agreements during the Interim Period (but in no event later than April 15, 2000).

4. OLDE Management or an affiliate, not the Funds, will bear the costs of preparing and filing the application and the costs relating to the solicitation of shareholder approval of the Funds necessitated by the Transaction.

5. OLDE Management will take all appropriate steps so that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Trust's Board, including a majority of the Independent Trustees, to the scope and quality of services previously provided under the Existing Agreements. If personnel providing material services during the Interim Period change materially, OLDE Management will apprise and consult with the Board to assure that the trustees, including a majority of the Independent Trustees, of the Trust are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30709 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

SUNSHINE ACT MEETING

AGENCY MEETING: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 29, 1999.

A closed meeting will be held on Wednesday, December 1, 1999, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, December 1, 1999, will be:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: November 23, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30918 Filed 11–23–99; 2:54 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New and Revised Tasks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new and revised task assignments for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of new tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC) and of revisions to a number of existing tasks. This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service (ANM–110), 1601 Lind Avenue, SW., Renton, WA 98055; phone (425) 227–2109; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is transport airplane and engine issues. These issues involve the airworthiness standards for transport category

airplanes and engines in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135. The corresponding Canadian standards are contained in Parts V, VI, and VII of the Canadian Aviation Regulations. The corresponding European standards are contained in Joint Aviation Requirements (JAR) 25, JAR–E, JAR–P, JAR–OPS–Part 1, and JAR–26.

As proposed by the U.S. and European aviation industry, and as agreed between the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA), an accelerated process to reach harmonization has been adopted. This process is based on two procedures:

(1) Accepting the more stringent of the regulations in Title 14 of the Code of Federal Regulations (FAR), Part 25, and the Joint Airworthiness Requirements (JAR); and

(2) Assigning approximately 41 already-tasked significant regulatory differences (SRD), and certain additional part 25 regulatory differences, to one of three categories:

- Category 1—Envelope
- Category 2—Completed or near complete
- Category 3—Harmonize

The Revised Tasks

ARAC will review the rules identified in the ''FAR/JAR 25 Differences List,'' dated June 30, 1999, and identify changes to the regulations necessary to harmonize part 25 and JAR 25. ARAC will submit a technical report on each rule. Each report will include the cost information that has been requested by the FAA. The tasks currently underway in ARAC to harmonize the listed rules are superseded by this tasking.

New Tasks

The FAA has submitted a number of new tasks for the Aviation Rulemaking Advisory Committee (ARAC), Transport Airplane and Engine Issues. As agreed by ARAC, these tasks will be accomplished by existing harmonization working groups. The tasks are regulatory differences identified in the above-referenced differences list as Rule type = P–SRD.

New Working Group

In addition to the above new tasks, a newly established Cabin Safety Harmonization Working Group will review several FAR/JAR paragraphs as follows:

ARAC will review the following rules and identify changes to the regulations necessary to harmonize part 25 and JAR:

(1) Section 25.787;
(2) Section 25.791(a) to (d);
(3) Section 25.810;
(4) Section 25.811;
(5) Section 25.819; and
(6) Section 25.813(c).

ARAC will submit a technical report on each rule. Each report will include the cost information that has been requested by the FAA.

The Cabin Safety Harmonization Working Group would be expected to complete its work for the first five items (identified as Category 1 or 2) before completing item 6 (identified as Category 3).

Schedule

Within 120 days of tasking/retasking:

- For Category 1 tasks, ARAC submits the Working Groups' technical reports to the FAA to initiate drafting of proposed rulemaking documents.
- For Category 2 tasks, ARAC submits technical reports, including already developed draft rules and/or advisory materials, to the FAA to complete legal review, economic analysis, coordination, and issuance.

June 2000: For Category 3 tasks, ARAC submits technical reports including draft rules and/or advisory materials to the FAA to complete legal review, economic analysis, coordination, and issuance.

ARAC Acceptance of Tasks

ARAC has accepted the new tasks and has chosen to assign all but one of them to existing harmonization working groups. A new Cabin Safety Harmonization Working Group will be formed to complete the remaining tasks. The working groups serve as staff to ARAC to assist ARAC in the analysis of the assigned tasks. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts a working group's recommendations, it forwards them to the FAA and ARAC recommendations.

Working Group Activity

All working groups are expected to comply with the procedures adopted by ARAC. As part of the procedures, the working groups are expected to accomplish the following:

1. Document their decisions and discuss areas of disagreement, including options, in a report. A report can be used both for the enveloping and for the harmonization processes.

2. If requested by the FAA, provide support for disposition of the comments received in response to the NPRM or review the FAA's prepared disposition of comments. If support is requested, the Working Group will review comments/disposition and prepare a report documenting their recommendations, agreement, or disagreement. This report will be submitted by ARAC back to the FAA.

3. Provide a status report at each meeting of ARAC held to consider Transport Airplane and Engine Issues.

Partcipation in the Working Groups

Membership on existing working groups will remain the same, with the formation of subtask groups, if appropriate. The Cabin Safety Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the Cabin Safety Harmonization Working Group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to participate must be received no later than December 30, 1999. The requests will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individuals will be advised whether or not the request can be accommodated.

Individuals chosen for membership on the Cabin Safety Harmonization Working Group will be expected to represent their aviation community segment and participate actively in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to ensure the ability of the working group to meet any assigned deadline(s). Members are expected to keep their management chain advised of working group activities and decisions to ensure that the agreed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for a vote.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group chair.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the working groups will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on November 19, 1999.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–30774 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RIN 2120–AA64

General Aviation Summit; Notice of Public Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting on the subject of the continued airworthiness of the U.S. general aviation fleet of aircraft. The purpose of the meeting is to gather information and discuss technical issues related to problems associated with the increasing average age of the general aviation fleet. Particular emphasis will be given to continued field support, service difficulty experiences and reporting, and inspection issues.

DATES: The public meeting will be held January 11–12, 2000, starting at 8:00 a.m. each day, in Kansas City, Missouri. Registration will begin at 8:00 a.m. on the first day of the meeting.

ADDRESSES: The public meeting will be held at the following location: The Adam's Mark Hotel, Grand Ballroom, 9103 East 39th Street, Kansas City, Missouri 64133.

Persons who are unable to attend the meeting may mail their comments to: Federal Aviation Administration, (FAA), Central Region, Small Airplane Directorate, Attention: Mr. Bill Timberlake, 901 Locust, Room 301, Kansas City, Missouri 64106. Written comments regarding the subject of this meeting will receive the same consideration as statements made at the public meeting.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the public meeting and questions regarding the logistics of the meeting should be directed to FAA, Central Region, Small Airplane Directorate, Attention: Mr. Bill Timberlake, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4178; facsimile (816) 329–4091.

SUPPLEMENTARY INFORMATION:

Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than 10 days prior to the meeting. Such requests should be submitted to Mr. Bill Timberlake as listed in the section titled **FOR FURTHER INFORMATION CONTACT** above, and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Those persons desiring to have available audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Background

The average airplane in the general aviation fleet of the United States is approximately 34 years old. In the next 10 years, this average age is expected to rise to over 41 years old. By the year 2019, the average general aviation airplane will be almost 50 years old.

Certain type design airplanes may be subject to pending rulemaking, which would require the development of Structural Inspection Documents (SIDs), and a mandated structural inspection program. These actions, if adopted, would not commence for at least 5 years and may not be complete until the year 2010. This rulemaking would not affect airplanes utilized in accordance with Part 91 of the Federal Aviation Regulations (14 CFR part 91). The FAA has determined that as the general aviation fleet gets older, there is concern about ensuring the continued airworthiness of these airplanes.

In addition to these concerns, there are a large number of general aviation airplane manufacturers that have gone out of business or severely curtailed operations. The FAA is concerned about the less than optimum availability of resources to respond to any airworthiness problems on these airplanes. The FAA is aware that many of these ''orphaned'' airplanes are well supported by owner associations and spare parts manufacturers, but unfortunately, this support is not available in all cases.

The FAA has determined that it is in the public interest to hold a public meeting on this subject for the purpose of sharing information and gathering additional data. Accordingly, the FAA will conduct this public meeting in Kansas City, Missouri.

The FAA anticipates that the agency, industry, and the general public will use the public meeting as a forum to share information, resolve questions, and discuss potential solutions concerning the continued airworthiness of older general aviation airplanes.

Public Meeting Procedures

The following procedures have been established for this meeting:

1. Admission and participation in the public meeting is free. The meeting will be open to all persons who have requested in advance to present statements, or who register on the first day of the meeting (between 8:00 a.m. and 8:30 a.m.). Time availability for presentations and seating will be made according to the order of reservation.
2. Representatives from the FAA will conduct the public meeting. A technical panel of FAA personnel will discuss information presented by participants.
3. The public meeting is intended as a forum to share information and resolve questions concerning the continued airworthiness of older general aviation airplanes. Those sharing information will include industry, the general public, and operators of general aviation aircraft. Participants must limit their presentations to the issue.
4. All interested parties will have the opportunity to present any additional information not currently available to the FAA. The FAA will then have the opportunity to explain the methodology and technical assumptions supporting its current observations.
5. FAA personnel, industry, and public participants may engage in a full discussion of all technical material presented at the meeting. Anyone presenting conclusions will be expected to submit to the FAA data supporting those conclusions.
6. The FAA will try to accommodate all speakers. Time may be limited for each presentation.
7. Sign and oral interpretations will be made available at the meeting, including assistive listening devices, if requested 10 calendar days before the meeting.
8. The meeting (except for any breakout sessions) will be recorded by a court reporter. Any person who is interested in purchasing a copy of the

transcript should contact the court reporter directly. This information will be available at the meeting.

9. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the subject of the meeting may be accepted at the discretion of the presiding officer. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

10. Statements made by FAA personnel are intended to facilitate discussion of the issues or to clarify issues.

11. The meeting is designed to share information and solicit public views and additional information. The meeting will be conducted in an informal and nonadversarial manner.

Issued in Kansas City, Missouri on November 18, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30633 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

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 Greater Peoria Regional Airport, Peoria, Illinois

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 Greater Peoria Regional 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 December 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, 2300 E. Devon Ave., Room 222, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Greater Peoria Regional Airport Authority, at the following address: Mr. Fred W. Traub, Director of Airports, Greater Peoria Regional Authority, 6100 W. Everett McKinley Dirksen Parkway, Peoria, Illinois 61607.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Peoria Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Civil Engineer, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, Room 222, 2300 E. Devon Ave., Des Planes, IL 60018, (847) 294–7195. 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 Greater Peoria Regional 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).

On November 5, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Greater Peoria Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 4, 2000.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2001.

Proposed charge expiration date: September 1, 2009.

Total estimated PFC revenue: $5,776,324.00.

Brief description of proposed projects: Rehabilitate Runway 4/22; rehabilitate and widen portions of the parallel taxiway system for Runway 4/22; entrance ring road rehabilitation and improvements; rehabilitate airport beacon; underground fuel storage tanks compliance with FAR 139; terminal expansion gates 2 and 3; passenger loading bridge; remove waivered obstruction from runway safety and object free areas; relocate Runway 31 takeoff threshold; widen southeast air cargo ramp; construct new taxiway from cargo apron to new threshold and relocate Smithville Road; remove taxiway from Runway 31 approach, relocate Runway 31 landing threshold, construct new connecting taxiway to new landing threshold; relocate Runway 31 glideslope, localizer and MALSR; flight information display system; public announcement system; rehabilitate and widen portions of the Runway 13/31 parallel taxiway system; snow removal equipment; construct new exit taxiway for Runway 13/31; construct new exit taxiway for Runway 4/22; rehabilitate/expand terminal apron ramp; landside site development for expansion of southeast air cargo park; rehabilitate baggage delivery system; land reimbursement; update ALP—Phases 1 and 2; airport environmental assessment.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Greater Peoria Regional Airport, 6100 W. Everett McKinley Dirksen Parkway, Peoria, Illinois.

Issued in Des Plaines, Illinois on November 17, 1999.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 99–30736 Filed 11–24–99; 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 Charger (PFC) at Rhinelander-Oneida County Airport, Rhinelander, Wisconsin

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 Rhinelander-Oneida County Airport under 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 December 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph Brauer, Manager, Rhinelander-Oneida County Airport at the following address: Rhinelander-Oneida County Airport at the following address: Rhinelander-Oneida County Airport, 3375 Airport Road, Rhinelander, WI 54501–9178.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Rhinelander and County of Oneida, Wisconsin under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Ave. So., Room 102, Minneapolis, MN 55450, (612) 713–4350. 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 PTC at Rhinelander-Oneida County Airport under 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).

On November 10, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Rhinelander and County of Oneida was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 9, 2000.

The following is a brief overview of the application.

PFC application number: 00–06–C–00–RHI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2000.

Proposed charge expiration date: October 31, 2004.

Total estimated PFC revenue: $335,056.00.

Brief description of proposed projects: (1.) Runway 5/23 Pavement Demolition; (2.) Y2K Compliance; (3.) Airfield Electrical Improvements; (4.) Terminal Apron Expansion; and (5.) PFC administration cost.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Rhinelander-Oneida County Airport.

Issued in Des Plaines, Illinois on November 17, 1999.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 99–30737 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 72–363; 5 U.S.C. App. 2) notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Monday, December 13, 1999, 10 to 4 p.m. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, in conference room 6332 of the Nassif Building.

The Advisory Council, called for under section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include an introduction of a new Advisory Council member, Director's programs update, BTS strategic plan, review of staffing, discussion of customer service outreach and marketing, report on focus groups held on BTS publications, update on safety conferences, identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian ''Pidge'' Chapman, Council Liaison, on (202) 366–1270 prior to September 15. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting, should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on November 19, 1999.

Ashish Sen,

Director.

[FR Doc. 99–30738 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 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 December 27, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1505.

Form Number: IRS Form 8820.

Type of Review: Extension.

Title: Orphan Drug Credit.

Description: Filers use this form to elect to claim the orphan drug credit,

which is 50% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 hr., 13 min. Learning about the law or the form—1 hr., 0 min. Preparing and sending the form to the IRS—1 hr., 8 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 836 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 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.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30707 Filed 11–24–99; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 64, No. 227

Friday, November 26, 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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 42113; File No. SR-Phlx-99-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Communications With Customers or Members of the Public

November 8, 1999.

Correction

In notice document 99–29876 beginning on page 62239 in the issue of Tuesday, November 16, 1999, make the following correction:

On page 62239, in the third column, insert the date ''November 8, 1999'' as in the heading above.

[FR Doc. C9–29876 Filed 11–24–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-52]

Proposed Modification of Class E Airspace; Steubenville, OH

Correction

In proposed rule document 99–28619 beginning on page 59688 in the issue of Wednesday, November 3, 1999, make the following correction:

On page 59689, in the first column, six lines from the bottom, ''Stuebenville'' should be spelled ''Steubenville''.

[FR Doc. C9–28619 Filed 11–24–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Friday
November 26, 1999

Part II

Department of Housing and Urban Development

24 CFR Parts 5 and 200

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties; Proposed Rules

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 200

[Docket No. FR–4452–P–01]

RIN 2501–AC45

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes for multifamily housing (non-public housing as more fully described in the Supplementary Information section) certain administrative processes by which HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing; the owners, under certain circumstances, will be provided an opportunity to seek technical review of HUD's physical condition assessment of the multifamily housing; and HUD may take action in certain cases where the housing is found not to be in compliance with the physical condition standards.

DATES: Comments Due Date: January 25, 2000.

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

FOR FURTHER INFORMATION CONTACT: For further information about multifamily issues covered by this rule, contact: Kenneth Hannon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6274, Washington, DC 20410; telephone (202) 708–0547, ext. 2599 (this is not a toll-free number).

For further information about the scoring methodology or the technical review process, contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC, 20024; telephone Customer Service Center at 1–888–245–4860 (this is a toll-free number).

For both offices, persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at 1–800 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—Uniform Physical Conditions Standards and Uniform Physical Inspection Protocols

On September 1, 1998 (63 FR 46566), HUD published a final rule that established uniform physical condition standards for public housing, and housing that is insured and/or assisted under certain HUD programs (collectively, HUD properties). The September 1, 1998, final rule also established uniform physical inspection protocols, based on computerized software developed by HUD, that allows HUD to determine compliance with these standards. The uniform physical condition standards are intended to ensure that HUD program participants carry out their legal obligations to maintain HUD properties in a condition that is decent, safe, sanitary and in good repair. The uniform inspection protocols are intended to assure that, to the greatest extent possible, there is uniformity and objectivity in the evaluation of the physical condition of HUD properties.

Before issuance of the September 1, 1998, final rule, HUD properties were required to meet physical condition standards and to undergo an annual physical inspection. The standards and inspection protocols which were then applicable to these properties, however, varied from HUD program to HUD program. The September 1, 1998, final rule was the first step directed toward achieving uniformity and consistency in the physical condition standards applicable to all HUD properties and in the inspection procedures to be used. For multifamily housing (as defined in Section IV of this preamble), the September 1, 1998, final rule represented the first step toward uniform and standardized assessment of the physical condition of multifamily housing properties. This proposed rule proceeds to the next stage which is to establish for multifamily housing properties certain administrative processes by which (1) HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing properties; (2) the owners, under certain circumstances, will be provided an opportunity to seek technical or other review of HUD's physical condition assessment of the multifamily housing properties; and (3) HUD may take action in certain cases where a property is found not to be in compliance with the physical condition standards.

II. Assessing and Scoring the Physical Condition of HUD Properties—HUD's Real Estate Assessment Center

The establishment of a system by which all HUD properties are assessed for compliance with physical conditions standards using uniform criteria is one of the key reforms of the HUD 2020 Management Reform Plan. The HUD 2020 Management Reform Plan, announced by Secretary Andrew Cuomo on June 26, 1997, is directed to (1) empowering people and communities to improve themselves, and (2) restoring HUD's reputation and credibility by improving the efficiency and effectiveness of HUD's programs, operations and delivery of services. Under the HUD 2020 Management Reform Plan, HUD's newly established Real Estate Assessment Center (REAC) is charged, among other things, with the responsibility for assessing and scoring the physical condition of HUD properties. Until the establishment of the REAC, HUD's Office of Housing and its Office of Public and Indian Housing independently operated separate real estate assessment operations, yet the administration of both organization's multifamily portfolios is a common function of asset management. In the HUD 2020 Management Reform Plan, HUD advised that the assessment of all properties of the Office of Housing and the Office of Public and Indian Housing would be consolidated, and the evaluation standards and procedures would be made uniform to the greatest extent possible. The REAC is responsible for assessing and scoring the performance of HUD properties.

With the establishment of the REAC, HUD now has in place an effective and comprehensive assessment system for physically inspecting and financially assessing all HUD properties using uniform inspection protocols. Application of uniform physical condition standards to all HUD properties and evaluation through uniform inspection protocols are important to a fair assessment process. One of HUD's objectives under HUD 2020 Management Reform is not only to identify where performance by program participants fails to meet acceptable standards (and to assist these participants in improving their performance or take enforcement action where appropriate), but also to identify those program participants that meet or

exceed acceptable standards and to provide incentives to these participants wherever possible. As part of the administrative processes to be established by this proposed rule, the REAC has begun a baseline physical inspection review of certain multifamily housing properties (baseline review). This review was announced by notice published in the **Federal Register** on February 9, 1999 (64 FR 6370) (February 9, 1999 Baseline Notice). This review was requested by the Congressional conferees in the FY 1999 HUD Appropriations Act.

III. Enforcing Compliance with HUD Program Requirements—HUD's Enforcement Center

Under the HUD 2020 Management Reform Plan, HUD has combined certain non-civil rights enforcement actions into one authority—the Departmental Enforcement Center (DEC). Before establishment of the DEC, each of HUD's program offices (the Office of Community Planning and Development, the Office of Housing, and the Office of Public and Indian Housing) operated independent enforcement functions, with different standards and procedures. The DEC is now the central Departmental office for taking action against owners of HUD assisted or insured properties determined to be in noncompliance with the rules and regulations of the Department or their contractual obligations with the Department. As will be discussed in more detail below, the DEC will have an important role in the administrative process, proposed in this rule, for covered multifamily housing.

IV. This Proposed Rule—Administrative Process for Scoring and Ranking Multifamily Housing Properties

(A) Covered Multifamily Housing Properties

Multifamily housing properties covered by this rule are the same as those listed in 24 CFR 5.701(a) and (b), published on September 1, 1998.

These properties are:

(a) Housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. ''Project-based assistance'' means Section 8 assistance that is attached to the structure (see 24 CFR 982.1(b)(1) regarding the distinction between ''project-based'' and ''tenant-based'' assistance);

(2) Section 202 Program of Supportive Housing for the Elderly (Capital Advances);

(3) Section 811 Program of Supportive Housing for Persons with Disabilities (Capital Advances); and

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) Housing with mortgages insured or held by HUD, or housing that is receiving insurance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) of the NHA (Market Interest Rate (MIR) Program);

(5) Section 221(d)(3) and (5) of the NHA (Below Market Interest Rate (BMIR) Program);

(6) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(7) Section 231 of the NHA (Housing for Elderly Persons);

(8) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Assisted Living Facilities, Board and Care Homes);

(9) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(10) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(11) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(12) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

As noted above, the covered properties are the same as those listed in 24 CFR 5.701(a) and (b) of the September 1, 1998, final rule. In the September 1, 1998, final rule, the reference to 'section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Persons)' is intended to cover both the section 221(d)(3) BMIR (Below-Market Interest Rate) program *and* the section 221(d)(3) MIR (Market Interest Rate) program. HUD now recognizes, however, that there is a possibility for confusion with this reference because one could misconstrue the reference as only applicable to section 221(d)(3) BMIR properties. A section 221(d)(3) BMIR property is insured under section 221(d)(3) of the NHA as is the section 221(d)(3) MIR Program, but the below-market interest rate for the section 221(d)(3) BMIR Program is provided pursuant to section 221(d)(5). Therefore, in this proposed rule, the coverage is more precisely delineated by reflecting the separate references to both programs.

(B) Process for Assessing, Scoring and Ranking Multifamily Housing Properties

For owners of covered multifamily housing properties, this proposed rule would add a new subpart P to 24 CFR part 200, to establish an assessment process for multifamily housing properties which would include the following components.

(1) *Scoring and Ranking the Physical Condition of Multifamily Housing Properties.* The rule proposes to establish a system for ranking multifamily housing properties covered by the February 9, 1999 Baseline Notice. For these properties, the ranking is based on the physical inspection results of the baseline review. Newly endorsed multifamily properties will be inspected in the first year after endorsement and then ranked in accordance with the process described in this proposed rule.

(a) *Physical Condition Designations.* Depending upon the results of its physical condition inspection, a multifamily housing property would be assigned one of the following designations: (1) Standard 1 performing property; (2) standard 2 performing property; or (3) standard 3 performing property. The physical condition designation assigned to a multifamily housing property will be based on numerical thresholds developed as a result of the REAC's baseline review of multifamily properties. This rule does not propose to establish at this time the numerical scores that will distinguish between the three categories of properties. HUD believes that meaningful numerical thresholds can only be determined after the REAC substantially completes its baseline review (using HUD's new uniform and computerized physical inspection protocol), and the REAC has had sufficient time to properly evaluate this data.

(b) *Methodology for Ranking.* When the baseline review is substantially completed, multifamily housing properties will be ranked in accordance with the following methodology. Multifamily housing properties are scored on the basis of 100 point scale. For each designation category, the lowest score in the category becomes the numerical threshold for that category.

(i) *Standard 1 Performing Properties—Highest 20 Percent.* Covered multifamily housing properties scoring in the highest 20 percent of a physical

condition inspection will be designated standard 1 performing properties and will be required to undergo a physical inspection once every three (3) years.

(ii) *Standard 2 Performing Properties—Next Highest 30 Percent.* Covered multifamily housing properties scoring in the next highest 30 percent of a physical condition inspection will be designated standard 2 performing properties and only will be required to undergo physical inspection once every two (2) years.

(iii) *Standard 3 Performing Properties—Remaining 50 Percent.* Covered multifamily housing properties scoring in the remaining 50 percent will be designated standard 3 performing properties, will be required to continue with the annual physical inspection currently required under covered HUD programs.

Example of Designation Process. To illustrate more clearly how the ranking will be done, assume for purposes of this example that the baseline review shows that those multifamily housing properties that rank in the top 20 percent have physical condition scores ranging from 100 to 80 with 100 being the maximum number of points that can be received for a physical condition inspection. As a result of this baseline review, all properties scoring 80 and above will be designated standard 1 performing properties.

Further assume for purposes of this illustration that the multifamily housing properties that fall into the next category of 30 percent have physical condition scores ranging from less than 80 but at least 70. These properties will be designated standard 2 performing properties, and all properties thereafter scoring at least 70, but less than 80, will be standard 2 performing properties.

The remaining 50 percent of multifamily properties will have scores of less than 70. These properties will be designated standard 3 performing properties, with the threshold being less than 70.

Resolving Exigent Health and Safety Deficiencies. Owners of multifamily housing properties scoring in a standard 1 or standard 2 range which have been cited by the REAC as having a Exigent Health and Safety deficiency(s) are obligated to resolve the deficiency(s) to be classified as standard 1 and standard 2 properties. The owners must certify and provide reasonable evidence that the deficiency(s) has been resolved to the applicable Multifamily Hub Director.

Meeting Physical Condition Standards Notwithstanding Performance Designation. Regardless of the performance designation assigned to an owner's property, an owner is obligated to maintain its property in accordance with HUD's uniform physical condition standards as required by 24 CFR part 5, subpart G, the Regulatory Agreement and/or the Housing Assistance Payment (HAP) Contract. Good management principles require an owner to conduct routine inspections of its projects, develop improvement plans, and again, maintain its property to meet the standard of decent, safe, sanitary and in good repair.

(c) *Inspecting and Scoring Individual Properties.* The process by which scores are developed was discussed in HUD's notice, ''Public Housing Assessment System; Notice of Physical Condition Scoring,'' published in the **Federal Register** on May 13, 1999, and again on June 23, 1999. Although this notice was directed to public housing agencies and describes the physical condition scoring process under the Public Housing Assessment System, the process for determining scores is the same for multifamily housing properties. The physical condition scoring process for both public housing and multifamily properties is based on HUD's uniform physical condition standards and use of HUD's uniform physical inspection protocols.

The physical condition designation assigned to a multifamily housing property does not prohibit HUD (the REAC, DEC or the Office of Housing) from conducting an inspection on any covered multifamily housing property at any time that HUD has reason to believe that the property has deteriorated significantly, or if information is brought to HUD that the physical condition of the property has deteriorated significantly, since the date that the last inspection was conducted. If HUD's new inspection verifies that the multifamily housing property has deteriorated significantly, HUD may revise the physical condition designation of the property, or take whatever action may be appropriate.

In addition to physical inspections performed to determine the physical condition of multifamily properties as provided by this rule, HUD may perform interim inspections for certain purposes such as section 8 contract renewal, partial release of security, permission to sell the security, or in connection with mortgage restructuring.

(2) *Technical Review of Physical Inspection Score Results.* This rule proposes to adopt as one of the administrative processes for multifamily housing properties, the technical review of physical inspection results described in HUD's notice, ''Real Estate Assessment Center; Technical Review of Physical Inspection Results,'' published in the **Federal Register** on May 13, 1999. The **Federal Register** notice describes the process for requesting (of the REAC) and the granting (by the REAC) a technical review of physical inspection results for public housing agencies. Based on that notice, this rule proposes to adopt the following procedures for covered multifamily housing properties.

Review of Physical Inspection Report and Identification of Objectively Verifiable and Material Error. Upon completion of a physical inspection of a multifamily housing property, the REAC will provide the owner with a physical inspection report. The physical inspection report includes a copy of the physical inspection results, the physical condition score and ranking, an explanation of the score and the owner's rights to request a technical review no later than 30 days following issuance of the physical inspection results to the owner. The rule imposes the responsibility on the owner to carefully review the report, particularly those items classified as exigent health and safety (EHS). All EHS items must be mitigated immediately, and the owner is required to file a written report with the local HUD office within 72 hours of the inspection. The owner is also responsible for conducting its own survey of the total project based on the REAC's physical inspection findings.

If the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection of an owner's multifamily housing property, which, if corrected, would result in a significant improvement in the property's overall score, the owner may request a technical review of the physical inspection results of the property.

Request for Technical Review and Burden of Proof. Until electronic transmission is arranged between HUD and the owner, the owner has a period of 30 calendar days to (i) review the physical inspection results and property score and determine if the results and score indicate that an objectively verifiable and material error (or errors) occurred in the inspection, which if corrected would result in a significant improvement in the property's overall score; and (ii) request a technical review by the REAC of the property's physical inspection results. A request for a technical review of physical inspection results must be submitted in writing to the Director of the Real Estate Assessment Center and must be received by the REAC, with a copy to the Multifamily Hub Director (MFD), no later than the 30th calendar day

following issuance of the physical inspection report to the owner. Note that the review period of 30 days will be the requisite review period only until electronic transmission of the physical inspection report is established. When electronic transmission is arranged between HUD and the owner, the review period will be 15 calendar days.

The request must be received by the REAC and be accompanied by the owner's reasonable evidence that an objectively verifiable and material error (or errors) occurred, which if corrected would result in a significant improvement in the property's overall score. A technical review of physical inspection results will not be conducted based on conditions that were corrected subsequent to the inspection nor will the REAC consider a request for a technical review that is based on a challenge to the inspector's findings as to the severity of a deficiency (e.g., categorization of the deficiency as minor, major or severe).

The burden of proof rests with the owner to reasonably demonstrate that an objectively verifiable and material error occurred in the inspection through the submission of evidence, which would result in a significant improvement in the property's overall score. To support its request for a technical review of the physical inspection results, the owner may submit photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence.

What Constitutes Material Errors. An objectively verifiable material error must be present to allow for a technical review of physical inspection results. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are as follows.

1. *Building Data Error.* A building data error occurs if the inspection includes the wrong building or a building that was not owned by the subject project owner, including common or site areas that were not a part of the property. Incorrect building data that does not affect the score, such as the address, building name, year built, etc., would not be considered material, but is information that HUD needs to know, and will be corrected upon notice to the REAC.

2. *Unit Count Error.* A unit count error occurs if the total number of units involved in the scoring process is incorrect. Since the scoring process uses total units, the REAC will examine instances where the participant can provide evidence that the total units used is incorrect.

3. *A Non-Existent Deficiency Error.* A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

What Constitutes Significant Improvement. Significant improvement refers to the correction of a material error, asserted by the owner, which causes the score for the owner's property to improve by crossing an administratively significant threshold (for example, the property would be redesignated from standard 3 performing to standard 2 performing or from standard 2 performing to standard 1 performing).

Determining Whether Material Error Occurred and What Action Is Warranted. Upon receipt of the owner's request for technical review of a property's physical inspection results, the REAC will evaluate the owner's property file and the evidence provided by the owner that an objectively verifiable and material error occurred which, if corrected, would result in a significant improvement in the property's overall score. If the REAC's evaluation determines that an objectively verifiable and material error (or errors) has been reasonably documented by the owner and if corrected would result in a significant improvement in the property's overall score, then the REAC shall take one or a combination of the following actions: (1) Undertake a new inspection; (2) correct the inspection report; or (3) issue a new physical condition score.

For an owner to understand how the REAC may conclude that a significant improvement may result from a new inspection, the owner may use the REAC's document titled ''Items, Weights and Criticality Levels'' to determine whether a significant improvement in the property's score may result from a new inspection. This document was included as Appendix 1 in the Notice of Physical Condition Scoring, published in the **Federal Register** on May 13, 1999, and republished on June 23, 1999 (64 FR 33650). The different severity levels of deficiencies (severe, major and minor) are defined in the REAC's ''Dictionary of Deficiencies Definitions,'' which is included as Appendix 2 in the Notice of Physical Condition Score published on May 13, 1999. These two documents are also available on the REAC Internet Site at http://www.hud.gov/reac.

Responsibility for the Cost of a New Inspection. If a new inspection score results in a significant improvement from the original physical inspection score, HUD shall bear the expense of the new inspection. If no significant improvement in the score is shown, then the owner must bear the expense of the new inspection. The cost of the new inspection, if paid by the owner, is not a valid project operating expense. The new inspection score will be considered the final score.

(3) Adjustment of Physical Condition Score Based on Considerations Other Than Technical Review and Reinspection. Under certain circumstances, it may be appropriate for HUD to review the results of a physical inspection which are anomalous or have an incorrect result due to facts and circumstances affecting the inspected property which are not reflected in the inspection or reflected inappropriately in the inspection. Circumstances such as, but not necessarily limited to, inconsistencies between local code requirements and the HUD physical inspection protocol; conditions which are permitted by variance or license or which are preexisting physical features non-conformities and are inconsistent with the HUD physical condition protocol; or cases where the owner has been scored for elements (e.g., roads, sidewalks, mail boxes, resident owned appliances, etc.) that it does not own and is not responsible for maintaining, may be addressed by a formal procedure to be initiated by the owner's notification to the applicable HUD Field Office and submission to that office of appropriate proof of the anomalous or inappropriate application. This process may result in a reinspection and/or rescoring of the inspection based on Office of Housing recommendation after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application. An owner may submit the request for this adjustment either prior to or after the physical inspection has been concluded. HUD shall define, by notice, the procedures to be followed to address circumstances described in paragraph (e) of this section. The procedures outlined in this Notice shall be binding on the REAC, the Office of Housing and the DEC. The notice will be applicable to both public housing and multifamily properties.

(C) Administrative Review of Properties Referred to the Departmental Enforcement Center

The files of any of the multifamily housing properties may be submitted to HUD's Departmental Enforcement Center (DEC) or to the appropriate MFD for evaluation, or both, at the discretion of the Office of Housing. For these properties, the following will occur:

(1) *Notification to Owner of Submission of Property File to the MFD and DEC.* The Department will provide

for written notification to the owner that the file on the owner's property is being submitted to the MFD and/or DEC for evaluation. The written notification will be provided by HUD at the time the REAC issues the physical inspection report to the owner or at such other time as referral occurs.

(2) *30-Day Period for Owner to Provide the DEC with Supporting and Relevant Information and Documentation.* The owner has 30 calendar days, from the date of written notification to the owner, to provide comments, proposals, or any other information which will assist the MFD and DEC in conducting a comprehensive evaluation of the property. A proposal provided by an owner may include the owner's plan to correct deficiencies (corrective action plan), which is encouraged by the DEC. During the 30-day response time available to the owner, the DEC may encourage the owner to submit a corrective action plan. The corrective action plan, if timely submitted during the 30-day period (whether on the owner's initiative or at the request of the DEC), may serve as additional information for the DEC to consider in determining appropriate action to take at the conclusion of the evaluation period. A corrective action plan may be required of the owner at the conclusion of the DEC's evaluation of the property.

(3) *Evaluation of the Property.* During the evaluation period, the DEC will perform an analysis of the multifamily housing property. The evaluation may include input from tenants, HUD multifamily officials, elected officials and others as may be appropriate. The MFD will assist with the evaluation of the property. The DEC will have primary responsibility for the conclusion of the evaluation of the property after taking into consideration the input of the individuals and groups listed above. The DEC's evaluation may include a site visit to the owner's property.

The DEC is committed to perform its evaluation as quickly as possible. The comments and proposals of the owners which have been provided since the REAC inspection, and any repairs that have been made since the REAC inspection, will be given serious consideration during the DEC evaluation period. During this evaluation period, since the owner and the Multifamily Hub have now been made aware of serious deficiencies at the property which resulted in the low REAC score, the owner must exert a full measure of oversight and ensure that all deficiencies are corrected.

(4) *Continuing Responsibilities of HUD Multifamily Program Offices and Mortgagee.* During the period of DEC evaluation, HUD's multifamily program offices continue to be responsible for routine asset management tasks on properties and all servicing actions (e.g., rent increase decisions, releases from reserve account approvals). In addition, during this period of evaluation, for insured mortgages, the mortgagee shall continue to carry out its duties and responsibilities with respect to the mortgage.

As part of its evaluation and development of the compliance plan (discussed under Section (D) below), the DEC will put together a team to evaluate and develop a corrective action plan. The Multifamily Hub Program Office will assign a Senior Project Manager to the team, who will be a working member of the team and serve as team liaison to the HUB Director. If conflict or an impasse develops during the team's assignment, the liaison will notify the Multifamily Hub Director who will work to mitigate and eliminate all conflict. The Multifamily Hub Director may, if appropriate, enlist the assistance of the Office of Housing/DEC liaison in Headquarters to resolve any disputes.

(D) Enforcement Action

If, at the conclusion of the evaluation period, the DEC determines that enforcement action is appropriate, the DEC will provide written notification to the owner of the DEC's decision to formally accept the property for enforcement purposes.

(1) *DEC Owner Compliance Plan.* After notification to the owner of the DEC's decision, the DEC will produce a proposed action plan (DEC Compliance Plan), the purpose of which is to improve the physical condition of the owner's property and correct any other known violations by the owner of its regulatory, contractual or other obligations. The DEC Compliance Plan will describe (1) the actions that will be required of the owner to correct, mitigate or eliminate identified property deficiencies, problems, hazards, and/or address legal violations by owners, and (2) the period of time within which these actions must be completed. The DEC Compliance Plan will specify the compliance responsibilities of the owner.

The DEC Compliance Plan will be submitted to the MFD for review and concurrence. If the MFD does not concur, the DEC Compliance Plan will be submitted to the Deputy Assistant Secretary for Housing and the Deputy Director of the DEC for review and concurrence. If the DEC Compliance Plan remains unapproved, a final decision on the plan will be made by HUD's Deputy Secretary in consultation with the General Counsel, the Assistant Secretary for Housing, and the Director of the DEC.

The owner will be provided a period of 30 calendar days to review the DEC Compliance Plan and respond to the DEC. If the owner agrees to comply with the DEC Compliance Plan, the plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(2) *Counter Compliance Plan Proposal By Owner.* The owner may submit a counter proposal to the DEC Compliance Plan. An owner's counter proposal to a DEC Compliance Plan must be submitted no later than the 30th day following submission of the DEC Compliance Plan to the owner. The DEC, in coordination with the MFD, may enter into discussions with the owner to achieve agreement to a revised DEC Compliance Plan. If the owner and the DEC agree on a revised DEC Compliance Plan, the revised plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(3) *Non-Cooperation and Non-Compliance by Owner.* If at the conclusion of the 30th calendar day following submission of the DEC Compliance Plan to the owner, the DEC receives no response from the owner, or the owner refuses to accept the DEC Compliance Plan or to present an acceptable counter compliance plan proposal, or if the owner accepts the DEC Compliance Plan or revised DEC Compliance Plan, but refuses to take the actions required of the owner in the plan, the DEC may take appropriate enforcement action.

(4) *No Limitation on Existing Enforcement Authority.* The proposed rule will emphasize that the administrative process established for multifamily housing properties will not prohibit the Office of Housing, the DEC or HUD generally to take whatever immediate action may be necessary, as authorized under existing statutes, regulations, contracts or other documents, to protect HUD's financial interests in multifamily properties and to protect the residents of these properties.

(E) Clarification of Certain Issues Related to Physical Inspection of Multifamily Housing Properties

(1) *Recurring Inspection of Properties.* In response to concerns raised at the

time of issuance of the September 1, 1998, final rule, about the possibility of more inspections being performed prior to the property's normal inspection schedule, this rule proposes to clarify that any additional inspection will occur under the following circumstances: (i) The REAC's baseline inspection of the property after the mortgagee has conducted its own inspection in accordance with existing requirements; (ii) at the request of the owner in accordance with the procedures discussed earlier in this preamble; (iii) as part of the administrative review process described in this proposed rule; (iv) in response to HUD's belief that the property has deteriorated significantly since its previous physical inspection, or information brought to HUD that a property has significantly deteriorated since its previous physical inspection; (v) as part of quality control to assure that inspections are being conducted properly; (vi) for special purposes including but not limited to partial release of security, permission to sell the security, or in connection with mortgage restructuring; or (vii) to conduct an inspection in conjunction with any possible enforcement action by HUD.

(2) *Information about the Physical Inspection System*. In the preamble to the September 1, 1998, uniform physical conditions final rule, HUD advised that it would make the inspection software and guidebook available from the REAC. Both the software and guidebook are available from the REAC web page at www.hud.gov/reac, or through the REAC Customer Service Center at no cost (besides nominal cost of shipping) by calling 1–888–245–4860. Public versions of the physical inspection software will be available on compact disk (CD) and can be obtained by calling the REAC Customer Service Center. REAC may update or revise the physical inspection software and guidebook from time to time. When requesting the physical inspection software and guidebook, the requestor will be asked to provide the Uniform Resource Locator (URL) for their firm or organization, the requester's e:mail address and post office mailing address.

(3) *Material Alteration of Physical Inspection Software*. In response to concerns raised at the time of issuance of the September 1, 1998, final rule, about the cost of the physical inspection protocol, HUD advises that it will not materially alter the physical inspection requirements in a manner which would materially increase the cost of performing the inspection.

(F) Enforcement Issues of Concern to Small Entities

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 847, approved March 29, 1996) (''SBREFA'') provides, among other things, for agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. On May 21, 1998 (63 FR 28214), HUD published a **Federal Register** notice describing HUD's actions on implementation of SBREFA.

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, *under appropriate circumstances*, waive civil penalties when a small entity violates a statute or regulation. Where penalties are determined appropriate, HUD's policy is to consider: (1) The nature of the violation (the violation must not be one that is repeated or multiple, willful, criminal or poses health or safety risks), (2) whether the entity has shown a good faith effort to comply with the regulations; and (3) the resources of the regulated entity. Depending upon the circumstances surrounding the violation, it is not HUD's intent to put any individual or entity out of business by the penalties or settlement amounts paid to the Federal Government.

With respect to DEC enforcement actions taken in accordance with this proposed rule, HUD is cognizant that section 222 of SBREFA requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to ''work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.'' To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices which are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its May 21, 1998 notice, HUD intends to work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

V. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Estimates of the total reporting and recordkeeping burden that will result from the collection of information are as follows:

Reporting and Recordkeeping Burden:

Section reference	Number of parties	Annual freq. of requirement	Est. Avg. time for requirement (hours)	Est. annual burden (hrs.)
§ 200.857 ..... Total Reporting and Recordkeeping Burden (Hours).	29,000	1	3	87,000

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information 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 agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4452) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

and

Oliver Walker, Reports Liaison Officer, Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451—7th Street, SW, Room 4238, Washington, DC 20410

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*, issued by the President on September 30, 1993. OMB determined that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made in this proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule is not anticipated to have a significant economic impact on a substantial number of small entities. As stated in the June 30, 1998, proposed rule and September 1, 1998, final rule on uniform physical condition standards, all HUD housing has been subject to physical condition standards and a physical inspection requirement. There are statutory directives to maintain HUD housing in a condition that is decent, safe, and sanitary. The rules on uniform physical conditions standards and uniform physical inspections do not alter these requirement, nor do they shift responsibility with respect to who conducts the physical inspection of the property. The entities and individuals responsible for the inspection of HUD subsidized properties remain responsible. This proposed rule is a follow-up to the September 1, 1998, final rule on uniform physical inspection standards by establishing an administrative process by which multifamily housing properties are analyzed, scored and ranked. With the exception of exigent circumstances, the administrative process, as described in the preamble, allows for appropriate and reasonable notice and opportunity for review and comment, and a reasonable period for corrective action. With respect to the physical inspection process itself, in the preamble to this proposed rule, HUD reiterated its commitment to provide the software at no cost to covered entities as well as the accompanying guidebooks and to publish a notice that gives covered entities reasonable notice of when the software and guidance are available. With the implementation of any new or modified program requirement, HUD intends to provide guidance to the covered entities, particularly small entities, to assist them in understanding the changes being made. Notwithstanding HUD's determination that this proposed rule would not have a significant economic impact on small entities, HUD specifically invites comments regarding alternatives to this proposed rule that would meet HUD's objectives as described in this preamble.

Executive Order, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this proposed rule are:

14.126—Mortgage Insurance—Cooperative Projects (Section 213)
14.129—Mortgage Insurance—Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities (Section 232)
14.134—Mortgage Insurance—Rental Housing (Section 207)
14.135—Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Rate Interest (Sections 221(d) (3) and (4))
14.138—Mortgage Insurance—Rental Housing for Elderly (Section 231)
14.139—Mortgage Insurance—Rental Housing in Urban Areas (Section 220 Multifamily)
14.157—Supportive Housing for the Elderly (Section 202)
14.181—Supportive Housing for Persons with Disabilities (Section 811)
14.188—Housing Finance Agency (HFA) Risk Sharing Pilot Program (Section 542(c))
14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation

List of Subjects in 24 CFR Parts 5 and 200

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public

housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, title 24 of the CFR is proposed to be amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for 24 CFR Part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. In § 5.701, paragraph (a) is revised, and a new paragraph (b) is added to read as follows:

§ 5.701 Applicability.

(a) This subpart applies to housing assisted under the HUD programs listed in 24 CFR 200.853(a).

(b) This subpart applies to housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the programs listed in 24 CFR 200.853(b).

* * * * *

PART 200—INTRODUCTION TO FHA PROGRAMS

3. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715–18; 42 U.S.C. 2535(d).

4. A new subpart P is added to 24 CFR part 200 to read as follows:

Subpart P—Physical Condition of Multifamily Properties

Sec.
200.850 Purpose.
200.853 Applicability.
200.855 Physical condition standards.
200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

Subpart P—Physical Condition of Multifamily Properties

§ 200.850 Purpose.

The purpose of this subpart is to establish the physical conditions standards and physical inspection requirements that are applicable to certain multifamily housing properties.

§ 200.853 Applicability.

This subpart applies to:

(a) Housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. ''Project-based assistance'' means Section 8 assistance that is attached to the structure (see 24 CFR 982.1(b)(1) regarding the distinction between ''project-based'' and ''tenant-based'' assistance);

(2) Section 202 Program of Supportive Housing for the Elderly (Capital Advances);

(3) Section 811 Program of Supportive Housing for Persons with Disabilities (Capital Advances); and

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) Housing with mortgages insured or held by HUD, or housing that is receiving insurance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) of the NHA (Market Interest Rate (MIR) Program);

(5) Section 221(d)(3) and (5) of the NHA (Below Market Interest Rate (BMIR) Program);

(6) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(7) Section 231 of the NHA (Housing for Elderly Persons);

(8) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Assisted Living Facilities, Board and Care Homes);

(9) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(10) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(11) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(12) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

§ 200.855 Physical condition standards and physical inspection requirements.

The physical condition standards and physical inspection requirements in 24 CFR part 5, subpart G, are applicable to the properties assisted or insured that are listed in § 200.853.

§ 200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

(a) *Scoring and ranking of the physical condition of multifamily housing properties.* (1) HUD's Real Estate Assessment Center (REAC) will score and rank the physical condition of certain multifamily housing insured properties listed in § 200.853 upon the REAC's completion of its physical inspection of these properties (the baseline review), as described in HUD's Baseline Review Notice published on February 9, 1999. Newly endorsed multifamily properties will be inspected in the first year after endorsement and then ranked in accordance with the process described in this proposed rule.

(2) Depending upon the results of its physical condition inspection, a multifamily housing property will be assigned one of three designations—standard 1 performing, standard 2 performing and standard 3 performing—in accordance with the ranking process described in paragraph (b) of this section.

(b) *Methodology for Ranking.* (1) Multifamily housing properties will be ranked in accordance with the methodology provided in this paragraph (b). Multifamily housing properties are scored on the basis of 100 point scale. For each designation category, the lowest score in the category becomes the numerical threshold for that category.

(i) *Standard 1 Performing Property—Highest 20 Percent.* If a property scores in the highest 20 percent of the physical condition inspection of multifamily housing properties, the property will be designated a standard 1 performing property. Properties designated as standard 1 performing properties will be required to undergo a physical inspection once every three (3) years.

(ii) *Standard 2 Performing Property—Next Highest 30 Percent.* If a property scores in the next highest 30 percent of the physical condition inspection of multifamily housing properties, the property will be designated a standard 2 performing property. Properties designated as standard 2 performing properties will be required to undergo a physical inspection once every two (2) years.

(iii) *Standard 3 Performing Property—Remaining 50 Percent.* If a property scores in the remaining 50 percent in the physical condition inspection of multifamily housing properties, the property will be designated a standard 3 performing property. Properties designated as standard 3 performing properties will continue to undergo an annual physical inspection as currently required under covered HUD programs.

(2) Owners of multifamily housing properties scoring in a standard 1 or standard 2 range which have been cited by the REAC as having a Exigent Health and Safety deficiency(s) are obligated to resolve the deficiency(s) to be classified as standard 1 and standard 2 properties. The owners must certify and provide reasonable evidence that the

deficiency(s) has been resolved to the applicable Multifamily Hub Director.

(3) Regardless of the performance designation assigned to an owner's property, an owner is obligated to maintain its property in accordance with HUD's uniform physical condition standards as required by 24 CFR part 5, subpart G, the Regulatory Agreement and/or the Housing Assistance Payment (HAP) Contract. Good management principles require an owner to conduct routine inspections of its projects, develop improvement plans, and again, maintain its property to meet the standard of decent, safe, sanitary and in good repair.

(c) *Owner's review of physical inspection report and identification of objectively verifiable and material error.* (1) Upon completion of a physical inspection of a multifamily housing property, the REAC will provide the owner with a physical inspection report. The physical inspection report includes a copy of the physical inspection results, the physical condition score and ranking, an explanation of the score and the owner's right to request a technical review of the physical inspection results as described in paragraph (d) of this section.

(2) The owner must carefully review the report, particularly those items classified as exigent health and safety (EHS). The owner is also responsible for conducting its own survey of the total project based on the REAC's physical inspection findings. The owner must mitigate all EHS items immediately, and the owner must file a written report with the local HUD office within 72 hours of the inspection.

(3) If, following review of the physical inspection results and score, the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection, which, if corrected, will result in a significant improvement in the property's overall score, the owner may request a technical review within the following period, as applicable:

(i) 15 calendar days if the results and score are electronically transmitted to the owner; or

(ii) 30 calendar days if the results and score are transmitted to the owner by hard copy by certified mail.

(d) *Technical review of physical inspection results.* A request for a technical review of physical inspection results must be submitted in writing to the Director of the Real Estate Assessment Center and must be received by the REAC no later than the 15th calendar day or 30th calendar day, as applicable under paragraph (c)(3) of this section, following issuance of the physical inspection report to the owner.

(1) *Request for technical review.* The request must be accompanied by the owner's reasonable evidence that an objectively verifiable and material error (or errors) occurred which if corrected will result in a significant improvement in the overall score of the owner's property. A technical review of physical inspection results will not be conducted based on conditions that were corrected subsequent to the inspection. Upon receipt of this request from the owner, and recommendation of the appropriate HUD Multifamily Hub Director, the REAC will review the physical inspection and the owner's evidence. If the REAC's review determines that an objectively verifiable and material error (or errors) has been documented and that it is likely to result in a significant improvement in the property's overall score, the REAC will take one or a combination of the following actions: undertake a new inspection; correct the original inspection; or issue a new physical condition score.

(2) *Burden of proof that error occurred rests with owner.* The burden of proof rests with the owner to demonstrate that an objectively verifiable and material error (or errors) occurred in the REAC's inspection through submission of evidence, which if corrected will result in a significant improvement in the property's overall score. To support its request for a technical review of the physical inspection results, the owner may submit photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence.

(3) *Material errors.* An objectively verifiable material error must be present to allow for a technical review of physical inspection results. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are as follows.

(i) *Building data error.* A building data error occurs if the inspection includes the wrong building or a building that was not owned by the property, including common or site areas that were not a part of the property. Incorrect building data that does not affect the score, such as the address, building name, year built, etc., would not be considered material, but is of great interest to HUD and will be corrected upon notice to the REAC.

(ii) *Unit count error.* A unit count error occurs if the total number of units considered in scoring is incorrect. Since scoring uses total units, the REAC will examine instances where the participant can provide evidence that the total units used is incorrect.

(iii) *A non-existent deficiency error.* A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

(4) *Significant improvement.* Significant improvement refers to the correction of a material error, asserted by the owner, which causes the score for the owner's property to cross an administratively significant threshold (for example, the property would be redesignated from standard 3 performing to standard 2 performing or from standard 2 performing to standard 1 performing).

(5) *Determining whether material error occurred and what action is warranted.* Upon receipt of the owner's request for technical review of a property's physical inspection results, the REAC will evaluate the owner's property file and the evidence provided by the owner that an objectively verifiable and material error occurred which, if corrected, would result in a significant improvement in the property's overall score. If the REAC's evaluation determines that an objectively verifiable and material error (or errors) has been reasonably documented by the owner and if corrected would result in a significant improvement in the property's overall score, then the REAC shall take one or a combination of the following actions:

(i) Undertake a new inspection;

(ii) Correct the inspection report; or

(iii) Issue a new physical condition score.

(6) *Responsibility for the cost of a new inspection.* If a new inspection is undertaken by the REAC and the new inspection score results in a significant improvement in the property's overall score, then HUD shall bear the expense of the new inspection. If no significant improvement occurs, then the owner must bear the expense of the new inspection. The inspection cost of a new inspection, if paid by the owner, is not a valid project operating expense. The new inspection score will be considered the final score.

(e) *Adjustment of physical condition score based on considerations other than technical review and reinspection.* Under certain circumstances, it may be appropriate for HUD to review the results of a physical inspection which are anomalous or have an incorrect result due to facts and circumstances affecting the inspected property which are not reflected in the inspection or reflected inappropriately in the inspection. Circumstances such as, but not necessarily limited to, inconsistencies between local code

requirements and the HUD physical inspection protocol; conditions which are permitted by variance or license or which are preexisting physical features non-conformities and are inconsistent with the HUD physical condition protocol; or cases where the owner has been scored for elements (*e.g.,* roads, sidewalks, mail boxes, resident owned appliances, etc.) that it does not own and is not responsible for maintaining, may be addressed by a formal procedure to be initiated by the owner's notification to the applicable HUD Field Office and submission to that office of appropriate proof of the anomalous or inappropriate application. This process may result in a reinspection and/or rescoring of the inspection based on Office of Housing recommendation after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application. An owner may submit the request for this adjustment either prior to or after the physical inspection has been concluded. HUD shall define, by notice, the procedures to be followed to address circumstances described in paragraph (e) of this section. The procedures outlined in this Notice shall be binding on the REAC, the Office of Housing and the DEC. The notice will be applicable to both public housing and multifamily properties.

(f) *Administrative review of properties.* The files of any of the multifamily housing properties may be submitted to HUD's Departmental Enforcement Center (DEC) or to the appropriate HUD Multifamily Hub Director (MFD) for evaluation, or both, at the discretion of the Office of Housing.

(1) *Notification to owner of submission of property file to the MFD and DEC.* The Department will provide for written notification to the owner that the file on the owner's property is being submitted to the MFD and/or the DEC for evaluation. The notification will be provided at the time the REAC issues the physical inspection report to the owner or at such other time as a referral occurs.

(2) *30-Day period for owner to provide the DEC with supporting and relevant information and documentation.* The owner has 30 calendar days, from the date of the REAC written notification to the owner, to provide comments, proposals, or any other information to the DEC which will assist the MFD and DEC in conducting a comprehensive evaluation of the property. A proposal provided by an owner may include the owner's plan to correct deficiencies (corrective action plan). During the 30-day response time available to the owner, the DEC may encourage the owner to submit a corrective action plan. The corrective action plan, if timely submitted during the 30-day period (whether on the owner's initiative or at the request of the DEC), may serve as additional information for the DEC to consider in determining appropriate action to take at the conclusion of the evaluation period. If not submitted during the 30-day response time, a corrective action plan may be required of the owner at the conclusion of the DEC's evaluation of the property.

(3) *Evaluation of the property.* During the evaluation period, the DEC will perform an analysis of the multifamily housing property, which may include input from tenants, HUD multifamily officials, elected officials, and others as may be appropriate. Although the MFD will assist with the evaluation, for insured mortgages, the DEC will have primary responsibility for the conclusion of the evaluation of the property after taking into consideration the input of interested parties as described in this paragraph (f)(2). The DEC's evaluation may include a site visit to the owner's property.

(4) *Continuing responsibilities of HUD Multifamily Program Offices and Mortgagee.* During the period of DEC evaluation, HUD's multifamily program offices continue to be responsible for routine asset management tasks on properties and all servicing actions (e.g., rent increase decisions, releases from reserve account approvals). In addition, during this period of evaluation, the mortgagee shall continue to carry out its duties and responsibilities with respect to the mortgage.

(g) *Enforcement action.* If, at the conclusion of the evaluation period, the DEC determines that enforcement action is appropriate, the DEC will provide written notification to the owner of the DEC's decision to formally accept the property for enforcement purposes.

(1) *DEC Owner Compliance Plan.* (i) After notification to the owner of the DEC's decision, the DEC will produce a proposed action plan (DEC Compliance Plan), the purpose of which is to improve the physical condition of the owner's property, and correct any other known violations by the owner of its legal obligations. The DEC Compliance Plan will describe:

(A) The actions that will be required of the owner to correct, mitigate or eliminate identified property deficiencies, problems, hazards, and/or correct any other known violations by the owner;

(B) The period of time within which these actions must be completed; and

(C) The compliance responsibilities of the owner.

(ii) The DEC Compliance Plan will be submitted to the MFD for review and concurrence. If the MFD does not concur, the DEC Compliance Plan will be submitted to the Deputy Assistant Secretary for Housing and the Deputy Director of the DEC for review and concurrence. If the DEC Compliance Plan remains unapproved, a final decision on the plan will be made by HUD's Deputy Secretary in consultation with the General Counsel, the Assistant Secretary for Housing, and the Director of the DEC.

(iii) Following submission of the DEC Compliance Plan to the owner, the owner will be provided a period of 30 calendar days to review and accept the DEC Compliance Plan. If the owner agrees to comply with the DEC Compliance Plan, the plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(2) *Counter compliance plan proposal by owner.* The owner may submit an acceptable counter proposal to the DEC Compliance Plan. An owner's counter proposal to a DEC Compliance Plan must be submitted no later than the 30th day following submission of the DEC Compliance Plan to the owner. The DEC, in coordination with the MFD, may enter into discussions with the owner to achieve agreement to a revised DEC Compliance Plan. If the owner and the DEC agree on a revised DEC Compliance Plan, the revised plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(3) *Non-cooperation and Non-compliance by owner.* If at the conclusion of the 30th calendar day following submission of the DEC Compliance Plan to the owner, the DEC receives no response from the owner, or the owner refuses to accept the DEC Compliance Plan, or to present a counter compliance plan proposal, or if the owner accepts the DEC Compliance Plan or revised DEC Compliance Plan, but refuses to take the actions required of the owner in the plan, the DEC may take appropriate enforcement action.

(4) *No limitation on existing enforcement authority.* The administrative process provided in this section does not prohibit the Office of Housing, the DEC, or HUD generally, to take whatever action may be necessary when necessary (notwithstanding the commencement of this process), as authorized under existing statutes, regulations, contracts or other

documents, to protect HUD's financial interests in multifamily properties and to protect the residents of these properties.

(h) *Limitations on material alteration of physical inspection software.* HUD will not materially alter the physical inspection requirements in a manner which would materially increase the cost of performing the inspection.

Dated: November 4, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–30814 Filed 11–24–99; 8:45 am]

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Federal Register

Vol. 64, No. 227

Friday, November 26, 1999

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Federal Register/Code of Federal Regulations

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Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106 1
59107–59602 2
59603–60082 3
60083–60332 4
60333–60646 5
60647–61014 8
61015–61198 9
61199–61472 10
61473–61768 12
61769–62088 15
62089–62560 16
62561–62970 17
62971–63170 18
63171–63560 19
63561–65652 22
65653–66094 23
66095–66354 24
66355–66540 26

CFR PARTS AFFECTED DURING NOVEMBER

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

Proclamations:
7245 59103
7246 60083
7247 60085
7248 61473
7249 62561
7250 62563
7251 66081
7252 66083
7253 66085
7254 66087
7255 66093

Executive Orders:
12170 (See Notice of November 5, 1999) 61471
12938 (See Notice of November 10, 1999) 61767
12958 (Amended by EO 13142) 66089
13067 (See Notice of October 29, 1999) 59105
13096 (See Proc. 7247) 60085
13101 (See Proc. 7250) 62563
13141 63169
13142 66089

Administrative Orders:
Memorandums:
October 27, 1999 60647
Notices:
October 29, 1999 59105
November 5, 1999 61471
November 10, 1999 61767
Presidential Determinations:
No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999) 60651
No. 2000–2 of October 21, 1999 58755
No. 2000–3 of October 25, 1999 58757
No. 2000–4 of October 27, 1999 60649
No. 2000–5 of October 29, 1999 60651
No. 2000–7 of November 10, 1999 65653

5 CFR

532 ..... 60087, 61769

Proposed Rules:
532 61793
1201 58798

7 CFR

210 61770
220 61770
226 61770
246 61015
301 ..... 60088, 60333, 63171
319 59603
354 62089
759 62565
760 66095
761 ..... 62565, 62566
762 62566
905 ..... 58759, 63160
928 59604
944 58759
959 66411
981 ..... 58763, 59107
1001 61776
1002 61776
1004 61776
1005 61776
1006 61776
1007 61776
1012 61776
1013 61776
1030 61776
1032 61776
1033 61776
1036 61776
1040 61776
1044 61776
1046 61776
1049 61776
1050 61776
1064 61776
1065 61776
1068 61776
1076 61776
1079 61776
1106 61776
1124 61776
1126 ..... 61199, 61776
1131 ..... 61201, 61776
1134 61776
1135 61776
1137 ..... 61199, 61776
1138 ..... 61201, 61776
1139 61776
1439 58766
1477 58766
1922 62566
1941 62566
1943 62566
1945 62566
1951 ..... 62566, 62971
1955 62566
1965 62566

Proposed Rules:
278 59665
770 59131
785 61034
923 60733
1217 59669

1280 65665
1823 59131
1946 61034
1951 61221
1956 59131

9 CFR

52 62569
77 58769
130 61689

Proposed Rules:

130 61689
391 61223

10 CFR

Proposed Rules:

2 ....59669, 59671
20 65665
50 59671
72 59677
73 59684
150 66115
430 ....61794, 66306
905 62604

11 CFR

100 59113
110 59606
114 59113
9003 61475
9004 ....59606, 61475
9007 61777
9008 61475
9032 61475
9033 61475
9034 ....59606, 61475, 61777
9035 ....61475, 61777
9036 ....59607, 61475
9038 61777

Proposed Rules:

100 60360
102 60360
103 60360
104 60360
106 60360
107 60360
109 60360
110 60360
114 60360
116 60360

12 CFR

1 60092
5 60092
7 60092
211 58780
226 60335
229 59607
308 62096
330 62096
343 62103
707 66355
711 66356
712 66360
905 61016
1805 59076

Proposed Rules:

226 60368
611 60370
650 61740
721 66413
917 66115
925 66115
930 66115
940 66115
950 66115
954 66115
955 66115
958 66115
965 66115
966 66115
980 66115
1102 58800

13 CFR

Proposed Rules:

120 60735

14 CFR

21 65655
34 60335
39 ....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71 ....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656, 66361, 66365, 66366, 66369, 66370
73 60339
91 66096
95 ....66097, 66100
97 ....61017, 61018, 63192, 63194
139 60068

Proposed Rules:

39 ....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666, 66116, 66118, 66119, 66121, 66415, 66417, 66418, 66419, 66422, 66424, 66426
71 ....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668, 66123, 66528
91 63140
93 62133
121 63140
125 63140

15 CFR

285 59616
738 60339
740 60339
746 60339
774 66372
801 59119

Proposed Rules:

287 59691
922 63262

16 CFR

312 59888
1616 61021

Proposed Rules:

310 66124

17 CFR

5 66373
200 ....61382, 61408
210 61962
228 61962
229 ....61408, 61962
230 ....61382, 61408, 61497, 61962, 62540
232 61408
239 ....61382, 61408, 61962
240 ....61382, 61408, 61962, 62540
249 ....61382, 61962
260 ....61382, 61962
270 62540
271 59877

Proposed Rules:

1 ....59694, 66428, 66432
5 66432
31 66432
34 65669
35 65669
230 62548
239 59826
240 ....59826, 62548
270 59826
274 59826
275 61226
279 61226

18 CFR

11 62572
385 62580

Proposed Rules:

35 60390
141 60140
385 60140

19 CFR

10 61204

Proposed Rules:

12 62618
24 62619
101 61232
141 62135

20 CFR

220 62976
375 66381

Proposed Rules:

219 66433
220 62996
322 62135
718 62997
722 62997
725 62997
726 62997
727 62997

21 CFR

5 59617
74 62582
175 60104
178 ....62583, 65657, 66103
207 63195
225 63195
310 62110
510 63195
514 63195
515 63195
520 ....66104, 66382, 66382
558 63195
801 59618
805 66105
884 62977

Proposed Rules:

20 60143
101 62746
120 65669
600 61045
606 61045
607 61045
610 61045
630 61045
640 61045
660 61045
801 59695

24 CFR

570 63680
903 66106
982 59620
990 61516

Proposed Rules:

5 66530
200 66530

25 CFR

Proposed Rules:

504 61234

26 CFR

1 ....58782, 59139, 60342, 61205, 61498, 61502
301 ....58782, 61498, 61502
602 61498

Proposed Rules:

1 ....59139, 60395, 61236, 63768
26 62997
301 63768

27 CFR

Proposed Rules:

9 66433

28 CFR

0 58782
2 59622
16 61786
27 58782
50 59122

Proposed Rules:

16 60753

29 CFR

37 61692
1917 61504
1918 61504
4003 65658
4007 ....65658, 66383
4011 65658
4041 65658
4041A 65658
4043 65658
4044 61787
4050 65658

Proposed Rules:

1401 59697
1910 65768
1952 62138
2590 62054
2700 61236

30 CFR

914 63681

915 66385
920 63684
934 60654
935 63688
948 ....61506, 61507

Proposed Rules:

70 65671
71 65671
90 65671
946 61805

31 CFR

1 ....62585, 62586
18 62112
538 58789
550 58789
560 58789

Proposed Rules:

1 62620

32 CFR

199 60671
2001 62113

Proposed Rules:

199 66126
767 63263

33 CFR

100 ....59623, 66106
117 ....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113, 66107
165 ....61051, 61209, 62586

Proposed Rules:

Ch. I 63266
110 60399
117 61561
147 66434
165 63267
175 63773

34 CFR

668 ....58974, 59016, 59060
682 ....58938, 59016
685 ....58938, 59016

Proposed Rules:

611 60632

36 CFR

211 60675

Proposed Rules:

5 61563
13 61563
51 63775
251 66342
1190 ....62248, 62622
1191 ....62248, 62622

37 CFR

201 66391
202 62977

Proposed Rules:

1 59701
201 ....59140, 66139

39 CFR

20 60106

Proposed Rules:

111 66143
3001 66436

40 CFR

9 66392
49 65660
51 58792
52 ....59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660, 66393
62 ....59648, 60689, 62114, 62117, 62978
63 ....59650, 63209, 63695, 63702
68 59650
131 61182
180 ....59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714, 66108
257 66392
261 63209
266 63209
300 ....60121, 61526, 63720

Proposed Rules:

49 65673
50 63002
51 62144
52 ....59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673, 66143, 66441
55 63271
62 ....59718, 62144, 62145
63 ....59719, 63779
68 59719
81 60478
82 59141
86 60401
141 59245
142 59245
152 62145
156 62145
180 58792
261 63382
266 63464
300 61051
372 61807
721 63275

41 CFR

101 59591
101-11 60348
101-43 62146
102 59591
102-36 62146

42 CFR

52b 63721
61 61218
409 60122
410 59379
411 ....59379, 60122
413 60122
414 59379
415 59379
420 66396
460 66234
462 66234
466 66234
473 66234
476 66234
485 59379
489 60122
1001 ....63504, 63518

Proposed Rules:

431 60882
433 60882
435 60882
457 60882

43 CFR

414 58986

Proposed Rules:

1300 61810

44 CFR

64 ....62594, 62596, 62598
65 ....60706, 60709
67 60711

Proposed Rules:

67 60759

45 CFR

Proposed Rules:

160 59918
161 59918
162 59918
163 59918
164 59918
303 62054
612 66146
613 66146
2505 66402

46 CFR

10 63213
15 63213

Proposed Rules:

2 62018
30 62018
31 62018
52 62018
61 62018
71 62018
90 62018
91 62018
98 62018
107 62018
110 62018
114 62018
115 62018
125 62018
126 62018
132 62018
133 62018
134 62018
167 62018
169 62018
175 62018
176 62018
188 62018
189 62018
195 62018
199 62018

47 CFR

Ch. 1 61527
0 ....60122, 60715, 61022
1 ....59656, 60122, 60715, 62119, 63235
2 ....60123, 66405
6 63235
7 63235
20 ....59656, 60126
21 ....60715, 63727
25 61791
27 60715
52 62983
54 ....60349, 62120
61 60122
68 60715
69 ....60122, 60349
73 ....59124, 59655, 60131, 62123, 63258, 63745
74 63727
76 60131
90 ....59148, 60123, 60715, 66405
95 59656
101 ....59663, 63727

Proposed Rules:

Ch. I 63277
1 59719
15 62159
18 62159
20 59719
43 59719
61 66442
73 ....59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90 ....59148, 60151

48 CFR

201 ....58908, 63380
203 62984
204 61028
208 61030
209 ....61028, 62984
213 ....58908, 63380
215 61031
219 ....62986, 62987
225 ....61028, 62984
226 62987
242 61028
247 61028
249 62984
251 61030
1845 62600
1852 62600

Proposed Rules:

203 63002
211 61056
226 63003

49 CFR

171 61219
172 61219
209 62828
230 62828
240 60966
601 61033

Proposed Rules:

Ch. I 63279
Ch. II 59046
178 62161
209 59046
552 60556
567 66447
568 66447
571 ....60556, 61810, 62622
585 60556
595 60556
1039 66156
1105 66157
1180 66157

50 CFR

17 ....58910, 63745
20 61532
222 60727
600 60731
622 ....59126, 60132
635 ....58793, 66114
640 59126
648 ....60359, 61220
660 ....59129, 62127, 63259

679.....61966, 63259
Proposed Rules:
16.....59149
17 .....58934, 59729, 62627, 62641, 63004
25.....62163
26.....62163
29.....62163
216.....63783
224.....62627
622 .....59152, 59153, 60151, 60402, 66449
648.....59156
654.....59153
660.....60402, 66158
679 .....58796, 59730, 60157

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 NOVEMBER 26, 1999

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Microprocessors controlled by Export Control Classification Number (ECCN); License Exception CIV eligibility expansion; published 11-26-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Summer flounder, scup, and black sea bass, etc.; published 10-26-99

ENVIRONMENTAL PROTECTION AGENCY
Solid wastes:
Criteria classification of solid waste disposal facilities and practices; published 11-26-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Idaho; published 11-3-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Lincomycin soluble powder; published 11-26-99
Sulfamethazine tablets; published 11-26-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Accounting policy accrual basis; revision; published 9-27-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Iowa; published 11-26-99

LIBRARY OF CONGRESS
Copyright Office, Library of Congress
Copyright office and procedures:
Nonsubscription digital transmissions; notice and recordkeeping requirements
Filing date extension; published 11-26-99

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Truth in Savings Act—
Electronic form statements; published 11-26-99

RAILROAD RETIREMENT BOARD
Emergency regulations:
Plan of operation during national emergency; procedures update; published 11-26-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 10-22-99
Bombardier; published 10-22-99
British Aerospace; published 10-22-99
Construcciones Aeronauticas, S.A.; published 10-22-99
Short Brothers; published 10-22-99

TREASURY DEPARTMENT
Customs Service
Customs bonded warehouses:
Inventory reports filing; published 10-26-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Olive oil promotion, research, and information order
Referendum procedures; comments due by 12-3-99; published 11-3-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Mexican fruit fly; comments due by 11-29-99; published 9-28-99
Oriental fruit fly; comments due by 11-29-99; published 9-28-99
User fees:
Veterinary services; import- and export-related services; comments due by 11-29-99; published 9-30-99
Viruses, serums, toxins, etc.:
Dog; definition; comments due by 11-29-99; published 9-28-99

AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation
Administrative regulations:
Appeal procedure; comments due by 11-29-99; published 9-30-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Administrative regulations;
Appeal procedure; comments due by 11-29-99; published 9-30-99
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

COMMERCE DEPARTMENT
Census Bureau
Foreign trade statistics:
Shipper's Export Declaration on behalf of principal party in interest; exporters' and forwarding agents' responsibilities to prepare and file; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Parties to transaction and their responsibilities, routed export transactions, Shipper's Export Declarations, and export clearance; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Coastal migratory pelagic resources; comments due by 11-29-99; published 10-25-99
Essential fish habitat; comments due by 12-2-99; published 11-2-99
West Coast States and Western Pacific fisheries—
West Coast salmon; comments due by 12-1-99; published 11-16-99

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
Patent business goals; comments due by 12-3-99; published 10-4-99
Payment of fees by credit card; changes; comments due by 12-3-99; published 11-3-99

DEFENSE DEPARTMENT
Engineers Corps
Navigation regulations:
Columbia and Snake Rivers, OR and WA; restricted area boundary adjustments; comments due by 11-29-99; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution control; new motor vehicles and engines:
Heavy duty highway engines and vehicles (2004 and later model years); emissions control, and light-duty truck definition; comments due by 12-2-99; published 10-29-99
Tier 2 motor vehicle emission standards and gasoline sulfur control requirements; comments due by 12-1-99; published 10-27-99
Air programs:

Accidental release prevention—
Risk management programs; comments due by 12-3-99; published 11-3-99
Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply
Findings rescission; comments due by 12-1-99; published 10-25-99
Findings rescission; comments due by 12-1-99; published 11-5-99
Stratospehric ozone protection—
Essential-use allowances; allocation; comments due by 12-2-99; published 11-2-99
Volatile organic compound (VOC) emmission standards—
t-butyl acetate; comments due by 11-29-99; published 9-30-99
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Maryland; comments due by 12-3-99; published 11-3-99
Air programs; State authority delegations:
Ohio; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 12-3-99; published 11-3-99
California; comments due by 11-29-99; published 10-28-99
Indiana; comments due by 12-3-99; published 11-3-99
Maryland; comments due by 11-29-99; published 10-28-99
New Jersey; comments due by 12-3-99; published 11-3-99
New York; comments due by 12-3-99; published 11-3-99
Ohio; comments due by 12-3-99; published 11-3-99
Oklahoma; comments due by 12-3-99; published 11-3-99
Tennessee; comments due by 12-3-99; published 11-3-99
Texas; comments due by 11-29-99; published 10-28-99
Virginia; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio; comments due by 11-29-99; published 10-28-99
Clean Air Act:
Acid rain program—
Nitrogen Oxides Emission Reduction Program; response to court remand; comments due by 11-29-99; published 10-15-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 11-29-99; published 10-15-99
Exclusions; comments due by 11-29-99; published 10-13-99
Water pollution control:
Great Lakes System; water quality guidance—
Bioaccumulative chemicals of concern; mixing zones prohibition; comments due by 12-3-99; published 10-4-99
Underground injection control program—
Alabama; comments due by 11-29-99; published 10-22-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Communications Assistance for Law Enforcement Act; implementation; comments due by 11-29-99; published 9-28-99
Federal-State Joint Board on Universal service—
Telecommunications deployment and subscribership to unserved or underserved areas including tribal and insular areas; comments due by 11-29-99; published 9-30-99
Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 12-3-99; published 11-3-99
Radio stations; table of assignments:
Minnesota; comments due by 11-29-99; published 10-21-99
Missouri; comments due by 11-29-99; published 10-21-99

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Freedom of Information Act; implementation; comments due by 12-1-99; published 11-1-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Administrative practice and procedure:
Ozone-depleting substances use; essential use determinations; comments due by 11-30-99; published 9-1-99
Biological products:
Blood, blood components, and source plasma requirements; revisions; comments due by 12-3-99; published 8-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:
Part B initial claim determinations; telephone and electronic review requests; comments due by 11-29-99; published 9-30-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:
Housing assistance payments (Section 8)—
Moderate rehabilitation units; lease execution or termination when remaining term of contract is less than one year; comments due by 12-3-99; published 10-4-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Tidewater goby; comments due by 11-30-99; published 10-15-99

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf; oil, gas, and sulphur operations:
Producer-operated pipelines that cross directly into State waters; comments due by 11-30-99; published 10-1-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 11-30-99; published 11-15-99

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:
Aliens; release gratuities, transportation, and clothing; comments due by 12-3-99; published 10-4-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
Organization and operations—
Overdraft policy; comments due by 11-29-99; published 9-30-99

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:
Nevada; comments due by 11-29-99; published 9-13-99

PERSONNEL MANAGEMENT OFFICE

Retirement:
Voluntary early retirement authority; comments due by 12-3-99; published 10-4-99

SECURITIES AND EXCHANGE COMMISSION

Securities:
Audit committee disclosure; comments due by 11-29-99; published 10-14-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:
Alaska; comments due by 11-30-99; published 6-2-99
Alaska; correction; comments due by 11-30-99; published 6-15-99
Ports and waterways safety:
Hudson River, NY; safety zone; comments due by 11-29-99; published 10-29-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AeroSpace Technologies of Australia Pty Ltd.; comments due by 12-1-99; published 10-12-99

Boeing; comments due by 12-3-99; published 10-19-99

Bombardier; comments due by 12-1-99; published 10-12-99

British Aerospace; comments due by 12-1-99; published 10-8-99

Cessna; comments due by 12-1-99; published 10-12-99

CFE Co.; comments due by 11-29-99; published 9-28-99

Dassault; comments due by 12-3-99; published 11-3-99

Dornier; comments due by 12-1-99; published 10-8-99

Empresa Brasileira de Aeronautica S.A.; comments due by 12-1-99; published 10-8-99

Eurocopter France; comments due by 12-3-99; published 10-4-99

Fairchild; comments due by 12-1-99; published 10-12-99

Harbin Aircraft Manufacturing Corp.; comments due by 12-1-99; published 10-8-99

Industrie Aeronautiche e Meccaniche; comments due by 12-1-99; published 10-8-99

McDonnell Douglas; comments due by 11-29-99; published 9-28-99

Mitsubishi; comments due by 12-1-99; published 10-8-99

New Piper Aircraft, Inc.; comments due by 12-1-99; published 10-12-99

Partenavia Costruzioni Aeronauticas S.p.A.; comments due by 12-1-99; published 10-8-99

Pilatus Aircraft Ltd.; comments due by 12-1-99; published 10-8-99

Pilatus Britten-Norman Ltd.; comments due by 12-1-99; published 10-8-99

Raytheon; comments due by 11-29-99; published 10-14-99

Short Brothers & Harland Ltd.; comments due by 12-1-99; published 10-12-99

SOCATA-Groupe Aerospatiale; comments due by 12-1-99; published 10-12-99

Special conditions—

Garlick Helicopters, Inc. Model GH205A; comments due by 11-29-99; published 9-30-99

Twin Commander Aircraft Corp.; comments due by 12-1-99; published 10-12-99

Class D airspace; comments due by 11-29-99; published 10-28-99

Schools and other certificated agencies:

Repair stations; Part 145 review; comments due by 12-3-99; published 10-21-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Miscellaneous amendments; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Diamond Mountain, CA; comments due by 11-29-99; published 9-29-99

TREASURY DEPARTMENT

Comptroller of the Currency

Federal Deposit Insurance Act:

Safety and soundness standards—

Year 2000 guidelines; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Fiscal Service

Financial management services:

Collateral acceptability and valuation; comments due by 11-29-99; published 10-29-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:

Administrative processing fees; comments due by 11-30-99; published 9-27-99

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:

Appeals regulations and rules of practice—

Simultaneously contested claims; comments due by 11-30-99; published 10-1-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

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